

# Washington State Register

September 1, 1999

OLYMPIA, WASHINGTON

ISSUE 99-17



## IN THIS ISSUE

Administrative Hearings, Office of  
Agriculture, Department of  
Assistance Programs, Division of  
Attorney General's Office  
Bellingham Technical College  
Boiler Rules, Board of  
Child Support, Division of  
Children's Administration  
Columbia Basin College  
Community, Trade and Economic Development,  
Department of  
Convention and Trade Center  
County Road Administration Board  
Ecology, Department of  
Economic Services Administration  
Education, State Board of  
Employment Security Department  
Evergreen State College, The  
Fish and Wildlife, Department of  
Forest Practices Board  
Gambling Commission  
Growth Management Hearings Boards  
Health, Department of  
Health, State Board of

Human Rights Commission  
Insurance Commissioner's Office  
Judicial Conduct, Commission on  
Labor and Industries, Department of  
Licensing, Department of  
Liquor Control Board  
Medical Assistance Administration  
Olympic Air Pollution Control Authority  
Outdoor Recreation, Interagency Committee for  
Productivity Board  
Professional Athletics  
Public Instruction, Superintendent of  
Revenue, Department of  
Secretary of State  
Social and Health Services, Department of  
Surgical Technology Program  
Toxicologist, State  
Transportation, Department of  
University of Washington  
Utilities and Transportation Commission  
Washington State Patrol  
Workforce Training and Education Coordinating  
Board

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

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## STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month September 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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# WASHINGTON STATE REGISTER

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### WASHINGTON STATE REGISTER

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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.

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# 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].

1998 - 1999

**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Adoption <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max. Non-OTS			
<i>For Inclusion in -</i>	<i>File no later than 12:00 noon -</i>			<i>Count 20 days from -</i>	<i>For hearing on or after</i>	<i>First Agency Adoption Date</i>
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
99 - 09	Mar 24, 99	Apr 7, 99	Apr 21, 99	May 5, 99	May 25, 99	Jun 19, 99
99 - 10	Apr 7, 99	Apr 21, 99	May 5, 99	May 19, 99	Jun 8, 99	Jul 3, 99
99 - 11	Apr 21, 99	May 5, 99	May 19, 99	Jun 2, 99	Jun 22, 99	Jul 17, 99
99 - 12	May 5, 99	May 19, 99	Jun 2, 99	Jun 16, 99	Jul 6, 99	Jul 31, 99
99 - 13	May 26, 99	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 27, 99	Aug 21, 99
99 - 14	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 10, 99	Sep 4, 99
99 - 15	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 24, 99	Sep 18, 99
99 - 16	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 7, 99	Oct 2, 99
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

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

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

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

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

## **REGULATORY FAIRNESS ACT**

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

### **Small Business Economic Impact Statements (SBEIS)**

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

### **Mitigation**

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

#### **When is an SBEIS Required?**

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

#### **When is an SBEIS Not Required?**

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

There is less than minor economic impact on business;

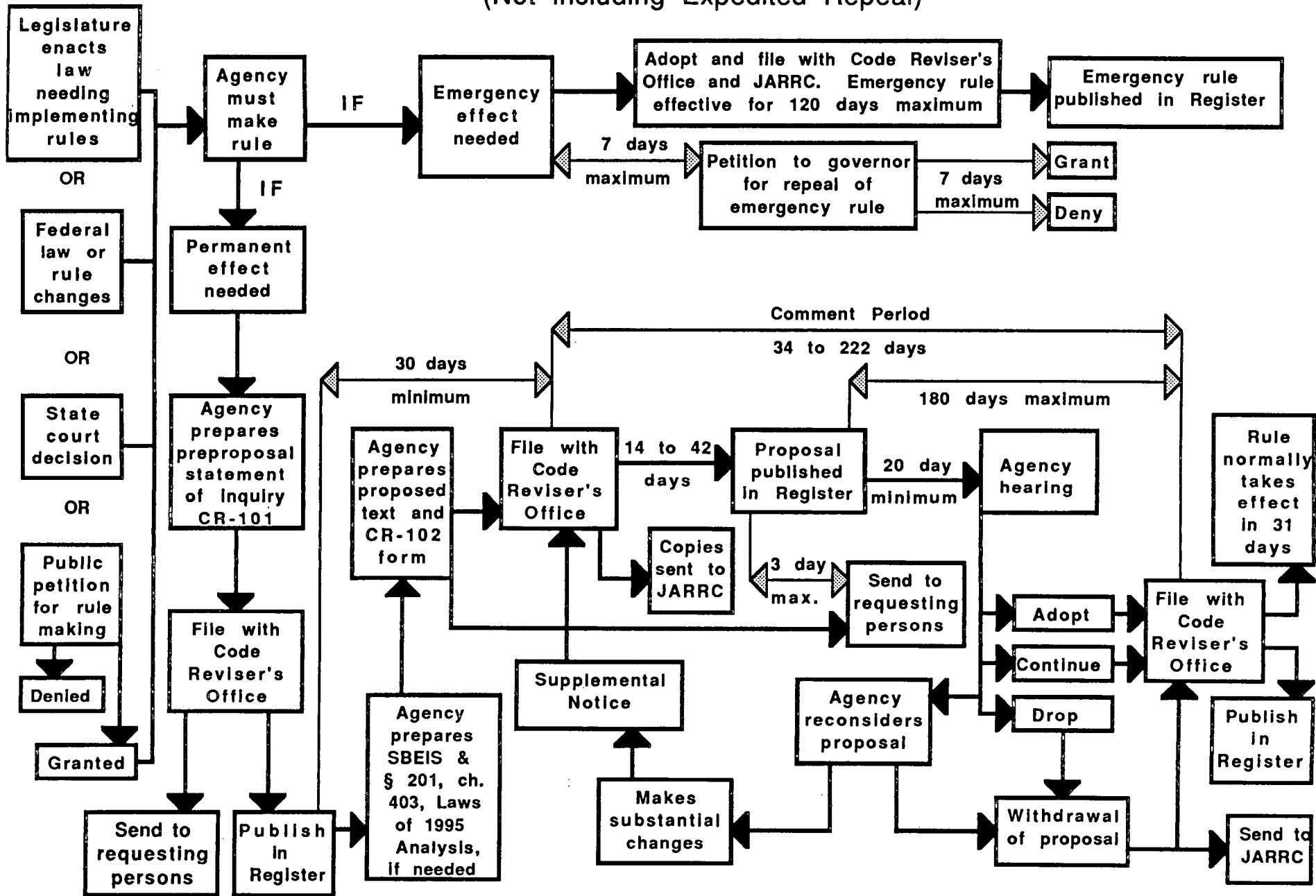
The rule **REDUCES** costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS

(Not including Expedited Repeal)



**WSR 99-17-009****PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 5, 1999, 3:41 p.m.]

Subject of Possible Rule Making: Volunteer cooperative project selection and funding.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080, 75.52.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: A better selection mechanism and ensuring use of available funding will increase the effectiveness of the volunteer program.

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

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Dave Gadwa, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2806. Contact by August 31, 1999. Expected proposal filing September 1, 1999.

August 5, 1999

Evan Jacoby

Rules Coordinator

**WSR 99-17-013****PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 6, 1999, 2:56 p.m.]

Subject of Possible Rule Making: General rules to govern the commercial marine fish and shellfish fishery.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Rules may be needed to control marine fish harvest to meet conservation and management concerns; require commercial fishery compliance with the intent of established conservation and sanctuary zones; and improve the implementing language governing the shellfish harvest log book requirements.

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 Morris Barker, Marine Resources Division Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944.

Contact by November 2, 1999. Proposal filing expected to be November 3, 1999.

August 6, 1999

Evan Jacoby

Rules Coordinator

**WSR 99-17-016****PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 6, 1999, 3:03 p.m.]

Subject of Possible Rule Making: Creating implementing rules for the sea urchin and sea cucumber commercial dive fisheries license bill. Creating implementing rules for the shift of the Puget Sound emerging commercial shrimp fisheries to a limited entry fishery along with such other requirements necessary for the management of the fishery.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 75.08.080 and ESHB 2107 and E2SSB 5658.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Required by legislative action.

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 Morris Barker, Marine Resources Division Manager, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944. Contact by November 2, 1999. Proposal filing expected to be November 3, 1999.

August 6, 1999

Evan Jacoby

Rules Coordinator

**WSR 99-17-024****PREPROPOSAL STATEMENT OF INQUIRY****DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed August 10, 1999, 11:01 a.m.]

Subject of Possible Rule Making: Amendments to WAC 388-290-400, 388-290-525, 388-290-850, 388-290-920, 388-290-950, and related sections in chapter 388-290 WAC, Working connections child care (WCCC), as well as possible new rules in chapter 388-290 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.04.050, 74.13.0903, Public Law 104-193, Sections 407 and 605, and 45 C.F.R. Parts 98 and 99 (Child Care and Development Fund Rule).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: To modify currently existing

rules on WCCC overpayments, family composition, application effective dates and processing time, lump sum payments, and related topics.

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

Process for Developing New Rule: Through regular meetings and review drafts, DSHS includes the following stakeholders in the rule-making process: Childcare advocates, CSO staff, and other state providers.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Roger Long, Program Manager, Department of Social and Health Services, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504, phone (360) 413-3259, fax (360) 413-3482, TTY (360) 413-3001, e-mail longrv@dshs.wa.gov.

August 10, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-17-027**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed August 10, 1999, 4:22 p.m.]

Subject of Possible Rule Making: Amend WAC 308-400-030 to include standard filing forms definition. Amend WAC 308-400-095 to establish nonstandard forms fee in rule.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 62A.9-409, 60.11.040, 60.68.035.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The UCC program needs to move to standard forms so that it can move forward and use current technology to meet the requirements of proposed changes to Article 9, reduce repetitive processes, allow for electronic filing and the electronic payment of filing fees. A nonstandard form fee needs to be established so that customers using nonstandard forms will pay a fee commensurate with the increased handling these forms will require.

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 Jon Donnellan, Administrator, Uniform Commercial Code, Department of Licensing, P.O. Box 9660, Olympia, WA 98504, phone (360) 586-4905, fax (360) 664-2550.

August 9, 1999  
Jon Donnellan  
Administrator

**WSR 99-17-033**

**PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 11, 1999, 3:58 p.m.]

Subject of Possible Rule Making: Catch reporting rules and conforming department identification.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Require accounting for crab delivered but not retained in order to improve allocation between competing interests. Housekeeping changes to conform department identification.

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 Morris Barker, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2826, fax (360) 902-2944. Contact by November 2, 1999. Expected proposal filing November 3, 1999.

August 11, 1999

Evan Jacoby  
Rules Coordinator

**WSR 99-17-036**

**PREPROPOSAL STATEMENT OF INQUIRY  
THE EVERGREEN STATE COLLEGE**

[Filed August 12, 1999, 9:13 a.m.]

Subject of Possible Rule Making: Parking fees at The Evergreen State College.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 28B.40.120(12).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: An increase in parking fees is needed in order to provide lot maintenance and additional parking spaces as the college adds new buildings, which will require the construction of parking spaces.

Process for Developing New Rule: On-campus consultation, consensus building consistent with normal institutional practices.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Art Costantino, Vice-President for Student Affairs and Interim Vice-President for College Advancement, The Evergreen State College, Library Building, Room 3236, Olympia, Washington 98505, (360) 866-6000 ext. 6296, fax (360) 866-6823.

August 9, 1999  
D. Lee Hoemann  
Rules Coordinator



**WSR 99-17-038**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**GAMBLING COMMISSION**

[Filed August 12, 1999, 12:51 p.m.]

Subject of Possible Rule Making: Miscellaneous gambling rules.

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: Housekeeping changes to cure reviser's notes and correct grammar.

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

Meetings at Cavanaugh's at Yakima Center, 607 East Yakima Avenue, Yakima, WA 98901, (509) 248-5900, on September 9 and 10, 1999; and at the Shilo Inn, 707 Ocean Shores Boulevard, Ocean Shores, WA 98569, (360) 489-4600, on October 14 and 15, 1999; and at Port Ludlow Conference Center, 9483 Oak Bay Road, Port Ludlow, WA, (360) 437-2222, on November 18 and 19, 1999.

August 12, 1999

Susan Arland

Rules Coordinator

**WSR 99-17-041**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed August 12, 1999, 2:12 p.m.]

Subject of Possible Rule Making: Marine preserve and conservation area boundaries.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Certain boundaries have been described using physical objects (such as a boundary circumscribing a net pen), and some of these physical objects have been moved or otherwise the boundary is not adequately described. Use of a more readily identifiable object or location would afford surety to users of the location of the marine preserve or conservation area.

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 Lou Mills, 600 Capitol Way, Olympia, WA 98501-1091, phone (360) 902-2834, fax (902) 2944 [(360) 902-2944]. Contact by November 2, 1999. Expected proposal filing November 3, 1999.

Evan Jacoby  
 Rules Coordinator

**WSR 99-17-053**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed August 13, 1999, 11:35 a.m.]

Subject of Possible Rule Making: Chapter 388-24 WAC describes eligibility and other factors related to the aid to families with dependent children—Foster care (AFDCFC) program. This program has been changed to the temporary assistance to needy families program. The department will repeal these rules and incorporate needed sections into the rules on the foster care program. Changes will reflect principles of clear rule writing. The entire chapter is proposed for repeal with the provisions of WAC 388-24-2430 moved to a more appropriate chapter of WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 74.13.031, 74.04.050, 74.04.055.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules are proposed [to] repeal out-of-date rules and to conform rules to clear writing standards per Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Health and Human Services (HHS) regulates aspects of out-of-home care and provides some financial assistance to the state through Title IV-B and Title IV-E of the Social Security Act.

Process for Developing New Rule: The Children's Administration, with input from the Attorney General's Office, will convene a work group consisting of department staff, assistant attorneys general, and stakeholders, including foster parents and their representatives to participate with Children's Administration in the review and development of revised rules for foster care. These rules proposed for repeal will be included in those discussions. Any revisions will be distributed generally for review and comment before finalization.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may ask to participate in the stakeholder work group that will work with staff to develop the rules by contacting Jill Montgomery, Confidential Secretary to the Director, Division of Program and Policy Development, at (360) 902-7913 or e-mail MONJ300@dshs.wa.gov. In addition, interested parties may provide recommendations for inclusion in the proposed rule. They may review and comment on the proposed rules in writing, by electronic mail,

or by telephone. They may participate in and offer testimony in public hearings that will be scheduled for the purpose of soliciting comments on the proposed rules.

August 11, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-17-054**

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

(Children's Administration)

[Filed August 13, 1999, 11:36 a.m.]

**Subject of Possible Rule Making:** Revisions to and repeal of existing rules and new sections to update rules relating to social services for families and children, including child protective services, foster care, adoption services, homemaker services, and family reconciliation services. And also to reflect principles of clear rule writing. Rules proposed for revision may include, but are not limited to, WAC 388-15-130, 388-15-132, 388-15-134, 388-15-150, 388-15-160, 388-15-220, and 388-15-570.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.13.031, 74.04.050, 74.04.055.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The rules are proposed to update program standards, update or repeal out-of-date rules, and conform rules to clear writing standards per Executive Order 97-02.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The department will offer HHS, Region 10, staff the opportunity to participate in a stakeholder group to work on revising and repealing these rules and will provide proposed rules for review and comment.

**Process for Developing New Rule:** The Children's Administration, with input from the Attorney General's Office, will convene a work group consisting of department staff, assistant attorneys general, and stakeholders, including foster parents and their representatives to participate with Children's Administration in the review and development of revised rules. These draft rules will be distributed generally for review and comment before finalization.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may ask to participate in the stakeholder work group that will work with staff to develop the rules by contacting Jill Montgomery, Confidential Secretary to the Director, Division of Program and Policy Development, at (360) 902-7913, or e-mail MONJ300@dshs.wa.gov. In addition, interested parties may provide recommendations for inclusion in the proposed rule. They may review and comment on the proposed rules in writing, by electronic mail, or by telephone. They may participate in and offer testimony

in public hearings that will be scheduled for the purpose of soliciting comments on the proposed rules.

August 11, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-17-055**

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

(Children's Administration)

[Filed August 13, 1999, 11:37 a.m.]

**Subject of Possible Rule Making:** Revisions to existing rules and possible new rules to update licensing fees for child day care and to provide waivers for child residential programs and to reflect principles of clear rule writing. Rules proposed for revision may include, but are not limited to, WAC 440-44-025 and 440-44-026.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 43.20B.110.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The review is [to] assess possible need for revision to existing rules and to consider writing rules clearly waiving payment of fees for licensees providing residential out-of-home care to children and to conform rules to clear writing standards per Executive Order 97-02.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The United States Department of Health and Human Services (HHS) regulates aspects of out-of-home care and provides some financial assistance to the state through Title IV-B and Title IV-E of the Social Security Act. The department will offer HHS, Region 10, staff the opportunity to participate in a stakeholder group to work on revising these rules and other rules related to child welfare services and out-of-home care and will provide proposed rules for review and comment.

**Process for Developing New Rule:** The Children's Administration, with input from the Attorney General's Office, will convene a work group consisting of department staff, assistant attorneys general, and stakeholders, including foster parents and their representatives to participate with Children's Administration in the review and development of revised rules. These draft rules will be distributed generally for review and comment before finalization.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may ask to participate in the stakeholder work group that will work with staff to develop the rules by contacting Jill Montgomery, Confidential Secretary to the Director, Division of Program and Policy Development, at (360) 902-7913 or e-mail MONJ300@dshs.wa.gov. In addition, interested parties may provide recommendations for inclusion in the proposed rule. They may review and comment on the proposed rules in writing, by electronic mail, or by telephone. They may participate in and offer testimony

in public hearings that will be scheduled for the purpose of soliciting comments on the proposed rules.

August 10, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

in public hearings that will be scheduled for the purpose of soliciting comments on the proposed rules.

August 10, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

### WSR 99-17-056

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

(Children's Administration)

[Filed August 13, 1999, 11:38 a.m.]

**Subject of Possible Rule Making:** Revisions to existing rules to update standards for Children's Administration's Office of Constituent Relations and to reflect principles of clear rule writing. Rules proposed for revision may include, but are not limited to, WAC 388-74-010 and 388-74-030.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.13.045.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The rules are proposed to update standards for the Children's Administration's Office of Constituent Relations and to conform rules to clear writing standards per Executive Order 97-02.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The United States Department of Health and Human Services (HHS) regulates aspects of out-of-home care and other services and provides some financial assistance to the state through Title IV-B and Title IV-E of the Social Security Act. The department will offer HHS, Region 10, staff the opportunity to participate in a stakeholder group to work on revising and repealing these rules and will provide proposed rules for review and comment.

**Process for Developing New Rule:** The Children's Administration, with input from the Attorney General's Office, will convene a work group consisting of department staff, assistant attorneys general, and stakeholders, including foster parents and their representatives to participate with Children's Administration in the review and development of revised rules. These draft rules will be distributed generally for review and comment before finalization.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may ask to participate in the stakeholder work group that will work with staff to develop the rules by contacting Jill Montgomery, Confidential Secretary to the Director, Division of Program and Policy Development, at (360) 902-7913 or e-mail MONJ300@dshs.wa.gov. In addition, interested parties may provide recommendations for inclusion in the proposed rule. They may review and comment on the proposed rules in writing, by electronic mail, or by telephone. They may participate in and offer testimony

### WSR 99-17-057

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

(Children's Administration)

[Filed August 13, 1999, 11:40 a.m.]

**Subject of Possible Rule Making:** Review and revisions to existing rules and new sections as necessary to update the chapter governing the domestic violence perpetrator treatment program and to reflect principles of clear rule writing. Rules proposed for revision may include, chapter 388-60 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 26.50.150.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The rules are proposed to update domestic violence perpetrator treatment program standards and to conform rules to clear writing standards per Executive Order 97-02.

**Process for Developing New Rule:** The Children's Administration, with input from the Attorney General's Office, will convene a work group consisting of department staff, assistant attorneys general, and stakeholders, including perpetrator treatment provides to participate with Children's Administration in the review and development of revised rules. These draft rules will be distributed generally for review and comment before finalization.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may ask to participate in the stakeholder work group that will work with staff to develop the rules by contacting Jill Montgomery, Confidential Secretary to the Director, Division of Program and Policy Development, at (360) 902-7913 or e-mail MONJ300@dshs.wa.gov. In addition, interested parties may provide recommendations for inclusion in the proposed rule. They may review and comment on the proposed rules in writing, by electronic mail, or by telephone. They may participate in and offer testimony in public hearings that will be scheduled for the purpose of soliciting comments on the proposed rules.

August 10, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-17-058****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Children's Administration)

[Filed August 13, 1999, 11:41 a.m.]

Subject of Possible Rule Making: Revisions to existing rules to update requirements for shelters for victims of domestic violence and to reflect principles of clear rule writing. Rules proposed for revision may include, but are not limited to, WAC 248-554-001, 248-554-005, 248-554-010, 248-554-015, 248-554-018, 248-554-020, and 248-554-030.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.123.030, 70.123.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules are proposed to update standards for shelters for victims of domestic violence and conform rules to clear writing standards per Executive Order 97-02.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: We will consult with the Department of Health and individuals or groups having experience and knowledge of the problems of victims of domestic violence in the review and revision of these rules.

Process for Developing New Rule: The Children's Administration, with input from the Attorney General's Office, will convene a work group consisting of department staff, assistant attorneys general, and stakeholders, including providers of services to victims of domestic violence to participate with Children's Administration in the review and development of revised rules. These draft rules will be distributed generally for review and comment before finalization.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Interested parties may ask to participate in the stakeholder work group that will work with staff to develop the rules by contacting Jill Montgomery, Confidential Secretary to the Director, Division of Program and Policy Development, at (360) 902-7913 or e-mail [MONJ300@dshs.wa.gov](mailto:MONJ300@dshs.wa.gov). In addition, interested parties may provide recommendations for inclusion in the proposed rule. They may review and comment on the proposed rules in writing, by electronic mail, or by telephone. They may participate in and offer testimony in public hearings that will be scheduled for the purpose of soliciting comments on the proposed rules.

August 10, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**WSR 99-17-065****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Filed August 13, 1999, 1:51 p.m.]

Subject of Possible Rule Making: Recreational fishing rules.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Ocean Shores Boat Basin has a net pen program that can offer recreational opportunity.

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 Lew Atkins, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2651, fax 902-2944. Contact by November 2, 1999. Expected proposal filing November 3, 1999.

August 13, 1999

Evan Jacoby  
Rules Coordinator

**WSR 99-17-076****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF HEALTH**

(Surgical Technology Program)

[Filed August 13, 1999, 4:41 p.m.]

Subject of Possible Rule Making: Chapter 335, Laws of 1999 became effective July 25, 1999. This legislation establishes a new profession called surgical technologists under the secretary, Department of Health. This profession will be registered by the secretary. The rules will address application requirements, application appeal procedures, renewal cycle and all applicable fees.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 335, Laws of 1999.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The rules will address application requirements, application appeal procedures, renewal cycle and all applicable fees.

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

Process for Developing New Rule: The department will hold two open rules writing workshops to work with students, surgical technologists, schools and facilities who employ surgical technologists. Following the workshops a public rules hearing will be held to take additional input. All persons on the interested persons mailing list, schools and targeted facilities will be contacted to participate in this open public process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kendra Pitzler, Program Manager, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4723, fax (360) 236-4738.

August 13, 1999  
M.C. Selecky  
Secretary

### WSR 99-17-079

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF TRANSPORTATION

[Filed August 16, 1999, 10:38 a.m.]

Subject of Possible Rule Making: Amendment to Highway Advertising Control Act, chapter 468-66 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 47.42 RCW, RCW 47.42.060.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Defines new "certification process" by incorporating into chapter 468-66 WAC, the provisions of SB 5832 of the 56th legislature, 1999 regular session. Amends additional sections of chapter 468-66 WAC, to clarify provisions of additional rules.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: There are no other federal or state agencies that regulate highway advertising control on state highways.

Process for Developing New Rule: Negotiated rule making and negotiations and agreements coordinated with Federal Highway Administration, Washington State Outdoor Advertising Association and the Department of Transportation.

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

August 16, 1999  
Gerald E. Smith  
Deputy Secretary, Operations

### WSR 99-17-080

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF ECOLOGY

[Order 99-02—Filed August 16, 1999, 2:25 p.m.]

Subject of Possible Rule Making: Consolidation, clarification, and repeal of new source review for criteria and toxic air pollutants currently in chapters 173-400 and 173-460 WAC, into new chapter 173-465 WAC. Incidental changes to chapters 173-400, 173-401, 173-405, 173-410, 173-415, 173-434, 173-490, and 173-491 WAC. Adoption of *de minimis* exemptions levels for toxic air pollutants. Adoption of

new control technology requirements. Modification of small quantity emission rates. Routine update of ASILs.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 70.94.331 (2)(c) and 70.94.152.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 173-400-110(5) provides that *de minimis* exemption levels for toxic air pollutants are specified in chapter 173-460 WAC, but they are not. This amendment would establish these *de minimis* levels in chapter 173-460 WAC. Developments in control technology should be reflected in the regulations. Clarifications will make the rule easier to follow and administer.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The 1990 amendments to the federal Clean Air Act established numerous requirements for a nationwide strategy for reducing toxic air pollution; many of the requirements are to be implemented by state and local authorities upon receiving approval from the EPA.

Process for Developing New Rule: Following APA procedures.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Steve Cross, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6875, stcr461@ecy.wa.gov, [http://www.wa.gov/ecology/leg/nsr\\_intro.html](http://www.wa.gov/ecology/leg/nsr_intro.html).

August 9, 1999  
Mary Burg  
Program Manager

### WSR 99-17-081

#### PREPROPOSAL STATEMENT OF INQUIRY GROWTH MANAGEMENT HEARINGS BOARDS

[Filed August 16, 1999, 3:14 p.m.]

Subject of Possible Rule Making: From time to time, the Joint Boards (Central Puget Sound, Western and Eastern) need to amend their rules of practice and procedure to reflect changes in the law and practice.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 36.70A.270(7).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The boards' rules were last revised in January of 1998. Several sections of the WACs can be streamlined and clarified.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The boards are quasi-judicial boards, the WACs govern only the boards' practice and procedure.

Process for Developing New Rule: Draft rules amendments developed jointly by the boards based on experiences and issues raised by participants in the review process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Ed McGuire, Central Puget Sound Growth Management Hearings Board, 1215 Fourth Avenue,

Suite 322, Financial Center, Seattle, WA 98161-1001, phone (206) 389-2625, fax (206) 389-2588, e-mail CPS@GMA-BOARDS.WA.GOV.

August 16, 1999  
 E.G. McGuire  
 Board Member  
 Rules Coordinator

lication by contacting Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, (360) 664-1648, fax (360) 704-4920, e-mail teb@liq.wa.gov.

August 13, 1999  
 Eugene Prince  
 Chair

**WSR 99-17-087**

**PREPROPOSAL STATEMENT OF INQUIRY  
 WASHINGTON STATE PATROL**

[Filed August 17, 1999, 9:36 a.m.]

Subject of Possible Rule Making: Amends WAC 446-30-010 Purpose.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.12.330.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Update WAC to state the correct RCW.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: Department of Licensing, agency study.

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 Ms. Carol Morton, Washington State Patrol, P.O. Box 42635, Olympia, WA 98504, phone (360) 412-8934, fax (360) 493-9090.

August 9, 1999  
 Annette M. Sandberg  
 Chief

**WSR 99-17-097**

**PREPROPOSAL STATEMENT OF INQUIRY  
 LIQUOR CONTROL BOARD**

[Filed August 17, 1999, 12:24 p.m.]

Subject of Possible Rule Making: Advertising regulations for liquor licensees, chapter 314-52 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 66.08.030, 66.08.060, 66.04.010, 55.28.010 [66.28.010], 66.28.40 [66.28.040], 66.28.110, 66.28.120, 66.28.160, 66.44.120, 66.44.200, and 66.44.270.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Liquor Control Board is currently undergoing a review of all of its rules to make them clear and usable, per Governor Locke's Executive Order 97-02. This notice concerns the board's intent to review its rules that outline advertising guidelines for liquor licensees.

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 pub-

**WSR 99-17-104**

**PREPROPOSAL STATEMENT OF INQUIRY  
 DEPARTMENT OF AGRICULTURE**

[Filed August 18, 1999, 9:03 a.m.]

Subject of Possible Rule Making: To place additional noxious weed species on, and to otherwise modify, the existing noxious weed seed and plant quarantine lists, chapter 16-752 WAC, and to review and update provisions of this rule.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amendment of the existing noxious weed seed and plant quarantine rule was requested by the Washington State Noxious Weed Control Board and the Washington State Weed Coordinators Association. The existing rule lists those noxious weed species which are attractive (i.e. pretty flowers or foliage) for nursery sale. However, the current trend towards unusual herbs, medicinal plants, and other, lesser known species has made expansion of the quarantine list desirable, since formerly unavailable, invasive noxious species are now entering distribution channels. The quarantine is intended to prevent the introduction and spread of these species in this state.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The United States Department of Agriculture (USDA) APHIS regulates a small number of species under the federal noxious weed regulations. However, the federal list is mainly intended to apply to international shipment, and the federal agency is not usually active in interstate or intrastate noxious weed regulation. The state office of USDA APHIS will be notified. The Washington State Noxious Weed Control Board establishes the state noxious weed list under authority of chapter 17.10 RCW. It requested changes in Washington State Department of Agriculture quarantine rules to complement its own and the county noxious weed boards' efforts.

Process for Developing New Rule: The Washington State Noxious Weed Control Board and the Washington State Weed Coordinators Association have requested the changes to this rule. Representatives of the Washington State Department of Agriculture discuss options for specific provisions of the proposal with the board, county agencies, and stakeholders such as the Nursery Advisory Board, and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA

98504-2560, phone (360) 902-1907, fax (360) 902-2094; and/or Lisa Lantz, Executive Director, Washington State Noxious Weed Control Board, 1851 South Central Place, Suite 211, Kent, WA 98031-7507, phone (253) 872-2972, fax (253) 872-6320.

August 18, 1999  
Mary A. Martin Toohey  
Assistant Director

Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; and/or Lisa Lantz, Executive Director, Washington State Noxious Weed Control Board, 1851 South Central Place, Suite 211, Kent, WA 98031-7507, phone (253) 872-2972, fax (253) 872-6320.

August 18, 1999  
Mary A. Martin Toohey  
Assistant Director

### WSR 99-17-105

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed August 18, 1999, 9:04 a.m.]

**Subject of Possible Rule Making:** To place additional aquatic weed species on the existing aquatic weed quarantine list, WAC 16-752-500 through 16-752-590 Noxious weed control/wetland and aquatic weed quarantine, and to review and update provisions of this rule.

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

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Amendment of the existing wetland and aquatic weed quarantine rule was requested by the Washington State Noxious Weed Control Board. Aquatic weeds can be extremely invasive and have an economically significant impact. Aquatic noxious weeds are considered particularly urgent problems, as escapes almost immediately become a public responsibility, and there are few (sometimes no) tools to control them. The quarantine of additional aquatic weeds is intended to prevent the introduction of these species in this state.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The United States Department of Agriculture (USDA) APHIS regulates a few species under the federal noxious weed regulations. However, the federal list is mainly intended to apply to international shipment, and the federal agency is not usually active in interstate or intrastate noxious weed regulation. The state office of USDA will be notified. The Washington State Noxious Weed Control Board establishes the state noxious weed list under authority of chapter 17.10 RCW. It requested this change in Washington State Department of Agriculture quarantine to complement its own and the county noxious weed boards' efforts. Washington Departments of Ecology and Fish and Wildlife have related, but different authorities, have indicated preliminary support, and will be included in the process.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant

### WSR 99-17-106

#### PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF AGRICULTURE

[Filed August 18, 1999, 9:06 a.m.]

**Subject of Possible Rule Making:** To amend chapter 16-218 WAC, Hops—Certification analyses—Fees.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 22.09 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** A nongovernmental hop industry group, Hop Growers of America (HGA), proposed establishing a new marketing tool for United States hops, a voluntary procedure for certification of hops as to variety. The varietal certification would be performed by HGA as a private entity; however, HGA would base certification on results of analyses performed on a fee-for-service basis by the WSDA Chemical and Hop Laboratory. Analysis for specific oil components, which is not currently a service offered by the lab, is required for this proposal. A new fee for this service would be needed. A review of the existing services and fee schedule is also in process.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** United States Department of Agriculture (USDA) GIPSA exercises federal oversight of state inspection of all United States hops for physical grade. However, analysis of chemical components of hops is conducted solely under state authority. The USDA has been notified of the proposal.

The Washington Hop Commission regulates some aspects of hop inspection, assessment, and marketing; however, it does not exercise any direct regulatory authority over this proposal. The commission has been notified of the proposal.

**Process for Developing New Rule:** Washington State Department of Agriculture representatives discuss proposed rule change with affected government agencies and stakeholders and then publish the rule proposal.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1907, fax (360) 902-2094; and/or Royal Schoen, Program Manager, Washington State Department of Agriculture, Chemical and Hop Laboratory,

21 North 1st Avenue, Suite 106, Yakima, WA 98902, phone (509) 225-2621, fax (509) 454-7699.

August 18, 1999  
Mary A. Martin Toohey  
Assistant Director

**WSR 99-17-112**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SECRETARY OF STATE**  
(Productivity Board)

[Filed August 18, 1999, 11:11 a.m.]

Subject of Possible Rule Making: Changes and clarifications to the State Employees' Suggestion Awards and Incentive Pay Act, chapter 41.60 RCW, chapter 383-06 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 41.60 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Pursuant to the amendment of chapter 41.60 RCW, Laws of 1999, chapter 50, and to ensure the effective implementation of the Act, adoption of these rules will amend chapter 383-06 WAC to:

- Clarify rules relating to the Statewide Employee Suggestion "Brainstorm" Program and create new rules for the administration of an Agency Unique Suggestion Program.
- Update program policy changes.
- Develop a new payment award scale for suggestion awards.

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 Michelle Wilson, Manager, Productivity Board, Office of the Secretary of State, 505 East Union, P.O. Box 40244, 1st Floor, Olympia, WA 98504-0244, (360) 664-4278, fax (360) 664-4250.

August 17, 1999  
Tracy Guerin  
Deputy Secretary of State

**WSR 99-17-113**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**SECRETARY OF STATE**  
(Productivity Board)

[Filed August 18, 1999, 11:11 a.m.]

Subject of Possible Rule Making: Changes and clarifications to the State Employees' Suggestion Awards and Incentive Pay Act, chapter 41.60 RCW, chapter 383-07 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 41.60 RCW.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Pursuant to the amendment of chapter 41.60 RCW, Laws of 1999, chapter 50, and to ensure the effective implementation of the Act, adoption of these rules will amend chapter 383-07 WAC to:

- Clarify rules relating to the Teamwork Incentive Program (TIP).
- Update program policy changes.
- Develop a new payment award scale for TIP team awards.

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 Michelle Wilson, Manager, Productivity Board, Office of the Secretary of State, 505 East Union, P.O. Box 40244, 1st Floor, Olympia, WA 98504-0244, (360) 664-4278, fax (360) 664-4250.

August 17, 1999  
Tracy Guerin  
Deputy Secretary of State

**WSR 99-17-115**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 18, 1999, 11:36 a.m.]

Subject of Possible Rule Making: Chapter 296-13 WAC, Practice and procedure—Electrical board; chapter 296-402 WAC, Electrical testing laboratory accreditation; and chapter 296-403 WAC, Amusement rides or structures.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 19.28.060, 67.42.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The department is proposing to update chapter 296-13 WAC, Electrical board practice and procedure, add a new section to chapter 296-402 WAC, Electrical testing laboratory accreditation, specifying which firms qualify to perform field evaluations on products and eliminate a two-year evaluation requirement, and amend chapter 296-403 WAC, Amusement rides or structures, to clarify when a temporary operating permit may be issued for amusement park rides. Additionally, all sections will be reviewed in accordance with Executive Order 97-02.

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

Process for Developing New Rule: The department, in conjunction with the Electrical Board and industry stakeholders, will develop the proposed amendments following the process mandated by 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 Janet Lewis, Chief Electrical Inspector, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44460, Olympia, WA 98504-4460, (360) 902-5249, fax (360) 902-5292.

August 16, 1999  
Gary Moore  
Director



**NO EXPEDITED REPEALS FILED IN THIS ISSUE**

**EXPEDITED REPEAL**



**WSR 99-17-010**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Division of Child Support)  
[Filed August 6, 1999, 10:40 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-003.

Title of Rule: Termination of support enforcement services; case closure. Amending WAC 388-14-420 Once a support enforcement case is opened, under what circumstances can it be closed? New WAC 388-14-421 Under what circumstances may DCS deny a request to close a support enforcement case? New WAC 388-14-422 Who is mailed notice of DCS' intent to close a case? New WAC 388-14-423 What if I don't agree with the case closure notice? and new WAC 388-14-424 What happens to payments that come in after a case is closed?

Purpose: Reviewed and revised the case closure rules because (1) federal regulation 45 C.F.R. 303.11 was amended and (2) reviewed under Governor's Executive Order 97-02 for clarity.

Statutory Authority for Adoption: RCW 26.23.035, 34.05.220, 74.20A.310.

Statute Being Implemented: RCW 26.23.035, 34.05.220, 74.20A.310.

Summary: These rules set forth the requirements for closing a case once the Division of Child Support (DCS) has been providing support enforcement services. The rule provides who can request closure, who receives notice of closure, and who can object to case closure, and incorporate changes in the federal regulations dealing with case closure.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, DCS Rules Coordinator, P.O. Box 9162, Olympia, WA 98507, (360) 664-5065.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules set forth the requirements for closing a case once DCS has provided support enforcement services, explain who can request closure, who gets notice of closure, and who can object to closure.

Proposal Changes the Following Existing Rules: Prior version was one rule, WAC 388-14-420. This rule has been revised and clarified as well as split into WAC 388-14-420 and new sections WAC 388-14-421, 388-14-422, 388-14-423, and 388-14-424.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This change does not meet the requirements for a small business economic impact statement because it does not affect small businesses.

RCW 34.05.328 does not apply to this rule adoption. This rule is not a significant legislative rule. It deals with case management and procedures.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on September 21, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by September 10, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@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) 664-6187, by September 21, 1999.

Date of Intended Adoption: September 22, 1999.

August 4, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 97-13-092, filed 6/18/97, effective 7/19/97)

**WAC 388-14-420** (~~Termination of~~) **Once a support enforcement (services) case is opened, under what circumstances can it be closed?** ((1) After the IV-D agency begins providing services under chapter 74.20 RCW and RCW 26.23.045 (1)(a), (b), (c), (e), or (f), the IV-D agency may terminate services when:

(a) There is no current support order and the support debt is less than five hundred dollars or cannot be enforced under the laws of the state of Washington;

(b) The IV-D agency determines that the responsible parent or putative father is dead and has no available assets, income, or estate subject to collection action;

(c) The IV-D agency determines that the responsible parent does not have any available assets, income, or estate subject to collection action, and is and will be unable to pay support because the parent is:

(i) Institutionalized in a psychiatric facility;

(ii) Incarcerated without possibility of parole; or

(iii) Medically verified as totally and permanently disabled with no evidence of support potential.

(d) The applicant, agency, or person receiving nonassistance services submits a written request to terminate services, and no current assignment to the state of medical support rights exists. If there is accrued debt under a support order that is assigned to the state:

(i) That portion of the case shall remain open; and

(ii) The IV-D agency may close the nonassistance portion of the case.

(e) The IV-D agency makes reasonable efforts to identify or locate the responsible parent, using local, state, and federal locate sources over a three-year period and does not find new locate information;

(f) The IV-D agency is unable to contact a nonassistance physical custodian within a thirty-day period using both a telephone call and one or more registered letters;

(g) The IV-D agency documents:

(i) Instances of the physical custodian's failure or refusal to cooperate with the IV-D agency; and

(ii) That the physical custodian's cooperation is essential for the next step in providing support enforcement services;

PROPOSED

~~(h) The IV-D agency cannot obtain a paternity order because:~~

- ~~(i) The putative father is dead;~~
- ~~(ii) A genetic test has excluded all known putative fathers and no other putative father can be identified;~~
- ~~(iii) The child is eighteen years of age or older; or~~
- ~~(iv) The department, a court of competent jurisdiction, or an adjudicative proceeding determines that paternity establishment would not be in the best interest of the child in a case involving:~~

- ~~(A) Incest;~~
- ~~(B) Rape; or~~
- ~~(C) Pending adoption.~~

~~(i) The department or a court of competent jurisdiction finds the person receiving services has wrongfully deprived the responsible parent of physical custody of a dependent child under WAC 388-11-065(3);~~

~~(j) The department or a court of competent jurisdiction finds that action establishing or enforcing a support obligation cannot proceed without risk of harm to the child or the child's custodian;~~

~~(k) The IV-D agency has provided locate-only services in response to a request for state parent locator services;~~

~~(l) The responsible parent is a citizen of, and lives in, a foreign country and:~~

~~(i) Does not have any assets which can be reached by the IV-D agency; and~~

~~(ii) Washington state has been unable to establish reciprocity in child support matters with that country; or~~

~~(m) The dependent child is confined to a juvenile rehabilitation facility for a period of ninety day or more; or~~

~~(n) Any other circumstances exist which would allow closure under 45 CFR 303.11 or any other federal statute or regulation.~~

~~(2) After the IV-D agency provides services under RCW 26.23.045 (1)(d), the IV-D agency shall:~~

~~(a) Terminate support enforcement services;~~

~~(i) If a court of competent jurisdiction orders the IV-D agency to terminate services based on:~~

~~(A) An approved alternate payment plan under RCW 26.23.050; or~~

~~(B) A finding that it is not in the child's best interest for the IV-D agency to continue providing services.~~

~~(ii) After filing a satisfaction of judgment with the court as provided under WAC 388-14-205; or~~

~~(iii) If the responsible parent is dead and the IV-D agency receives proof there is no available estate.~~

~~(b) Terminate services, except records maintenance and payment processing:~~

~~(i) For the reasons stated under subsections (1)(e), (d), (e), (f), (g), (j), (k), (l), or (m) of this section; or~~

~~(ii) If the payee under the order fails to submit an application for support enforcement services.~~

~~(3) Sixty days before terminating services, the IV-D agency shall mail a notice to the physical custodian. The IV-D agency shall:~~

~~(a) Send the notice by regular mail to the last known address of the physical custodian;~~

~~(b) Include in the notice the reasons for terminating services; and~~

~~(c) State in the notice that the physical custodian may ask for a hearing to contest the decision terminating services.~~

~~(4) After terminating support enforcement services, the IV-D agency shall return support money the IV-D agency receives to the payor except as provided under subsection (2)(b) of this section.) Once the division of child support (DCS) starts providing support enforcement services under RCW 26.23.045 and chapter 74.20 RCW, the case must remain open, unless DCS determines that:~~

(1) There is no current support order, and the support debt owed by the noncustodial parent (NCP) is less than five hundred dollars, or cannot be enforced under Washington law;

(2) The NCP or putative (alleged) father is dead with no assets, income or estate available for collection;

(3) The NCP has no assets or income available for collection and is not able to provide support during the child's minority because of being:

(a) Institutionalized in a psychiatric facility;

(b) Incarcerated without possibility of parole; or

(c) Medically verified as totally and permanently disabled with no evidence of ability to provide support.

(4) The applicant, agency or recipient of nonassistance services submits a written request for closure, and there is no current assignment of medical or support rights;

(5) DCS has enough information to use an automated locate system, and has not been able to locate the NCP after three years of diligent efforts;

(6) DCS does not have enough information to use an automated locate system, and has not been able to locate the NCP after one year of diligent efforts;

(7) DCS is unable to contact the applicant, agency or recipient of services for at least sixty days;

(8) DCS documents failure to cooperate by the physical custodian or the initiating jurisdiction, and that cooperation is essential for the next step in enforcement;

(9) DCS cannot obtain a paternity order because:

(a) The putative father is dead;

(b) Genetic testing has excluded all putative fathers;

(c) The child is at least eighteen years old;

(d) DCS, a court of competent jurisdiction or an administrative hearing determines that establishing paternity would not be in the best interests of the child in a case involving incest, rape, or pending adoption; or

(e) The biological father is unknown and cannot be identified after diligent efforts, including at least one interview by DCS or its representative with the recipient of support enforcement services.

(10) DCS, a court of competent jurisdiction or an administrative hearing determines that the recipient of services has wrongfully deprived the noncustodial parent of physical custody of the child as provided in WAC 388-11-065(3);

(11) DCS, the department of social and health services, a court of competent jurisdiction or an administrative hearing determines that action to establish or enforce a support obligation cannot occur without a risk of harm to the child or the physical custodian;

(12) DCS has provided locate-only services in response to a request for state parent locator services (SPLS);

(13) The NCP is a citizen and resident of a foreign country, and:

(a) NCP has no assets which can be reached by DCS; and

(b) The country where NCP resides does not provide reciprocity in child support matters.

(14) The child is incarcerated or confined to a juvenile rehabilitation facility for a period of ninety days or more; or

(15) Any other circumstances exist which would allow closure under 45 CFR 303.11 or any other federal statute or regulation.

#### NEW SECTION

**WAC 388-14-421 Under what circumstances may DCS deny a request to close a support enforcement case?**

(1) The division of child support (DCS) may deny a request to close a support enforcement case when:

(a) There is a current assignment of support or medical rights on behalf of the children in the case;

(b) There is accrued debt under a support order which has been assigned to the state;

(c) Support or medical rights on behalf of the children have previously been assigned to the state;

(d) The person who requests closure is not the recipient of support enforcement services; or

(e) A superior court order requires payments to the Washington state support registry (WSSR).

(2) If there is no current assignment of support or medical rights, DCS may close the portion of the case which is owed to the physical custodian, but if there is accrued debt under a support order which has been assigned to the state, DCS keeps that portion of the case open.

(3) If a superior court order specifies that the noncustodial parent (NCP) must make payments to the WSSR, but the physical custodian does not want support enforcement services, DCS keeps the case open as a payment services only (PSO) case, which means that:

(a) DCS provides payment processing and records maintenance, and

(b) DCS does not provide enforcement services.

#### NEW SECTION

**WAC 388-14-422 Who is mailed notice of DCS' intent to close a case?** (1) Sixty days before closing a case the division of child support (DCS) sends a notice of intent to close, advising the parties why DCS is closing the case.

(a) DCS does not send a notice when closing a case under WAC 388-14-420 (11) or (12).

(b) DCS does not provide sixty days' prior notice when closing a case under WAC 388-14-420(4).

(2) DCS mails a notice by regular mail to the last known address of the physical custodian and the noncustodial parent.

(3) In an interstate case, DCS mails the notice to the physical custodian by regular mail in care of the other state's child support agency.

(4) If DCS is closing an interstate case because of noncooperation by the initiating jurisdiction, DCS also mails the notice to the other state's child support agency.

#### NEW SECTION

**WAC 388-14-423 What if I don't agree with the case closure notice?** (1) Only the person who applied for support enforcement services, also known as the recipient of services, may request a hearing to challenge closure of a case.

(2) If the recipient of services requests a hearing, the other party may participate in the hearing.

(3) The closure of a child support case does not stop the physical custodian or noncustodial parent from filing an application for support enforcement services in the future, but the reason for closure may affect whether the division of child support will open a new case.

#### NEW SECTION

**WAC 388-14-424 What happens to payments that come in after a case is closed?** After support enforcement services are terminated, DCS returns support money to the noncustodial parent except if the case remains open as a payment services only (PSO) case as described in WAC 388-14-421(4).

#### **WSR 99-17-028**

#### **PROPOSED RULES**

#### **BOARD OF BOILER RULES**

[Filed August 11, 1999, 8:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-05-021.

Title of Rule: Chapter 296-104 WAC.

Purpose: To comply with actions taken by the Board of Boiler Rules and to clarify and update current rules using clear rule writing.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040.

Statute Being Implemented: Duties of board make definitions, rules and regulations; Boiler Construction Code; Rules and Regulations - Scope.

Summary: Amends WAC 296-104-001 through 296-104-170 and 296-104-502 to clarify, use clear rule writing, comply with RCW changes and to delete obsolete wording or sections.

Reasons Supporting Proposal: To comply with actions taken by the Board of Boiler Rules to clarify wording, make existing WACs consistent with nationally accepted codes and standards, recent RCW changes and to respond to industry requests and public safety factors.

Name of Agency Personnel Responsible for Drafting: Board of Boiler Rules, 7273 Linderson Way S.W., Tumwater, (360) 902-5270; Implementation and Enforcement: Dick Barkdoll/Pat Carlson-Brown, 7273 Linderson Way S.W., Tumwater, (360) 902-5270.

Name of Proponent: Board of Boiler Rules, governmental.

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

PROPOSED

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 296-104-001, administration, clarifies, deletes obsolete wording, uses clear rule writing.

WAC 296-104-002, approval by director, delete, obsolete.

WAC 296-104-010, definitions, retitles and lists definitions alphabetically. Clarifies certain definitions.

WAC 296-104-015, administration, deletes unnecessary wording, uses clear rule writing.

WAC 296-104-018, administration, clarifies stakeholder request for interpretations, adds information, uses clear rule writing.

WAC 296-104-020, administration, clarifies filing requirements to comply with RCW change, changes "ASME" to "construction" codes, uses clear rule writing.

WAC 296-104-025, 296-104-030, 296-104-035, 296-104-040, 296-104-045 and 296-104-055, administration, clear rule writing.

WAC 296-104-050, administration, clarifies examination requirements, uses clear rule writing.

WAC 296-104-060, administration, clarifies and clear rule writing.

WAC 296-104-065, administration, clarifies process of obtaining a commission, uses clear rule writing.

WAC 296-104-100, inspection, clarifies and revises inspection frequency of boilers and unfired pressure vessels, uses clear rule writing.

WAC 296-104-102, inspection, changes NBIC to 1998 edition.

WAC 296-104-105, inspection, clear rule writing.

WAC 296-104-107, inspection, delete, covered in RCW 70.79.080.

WAC 296-104-110, inspection, clarifies procedure when unsafe condition is found, uses clear rule writing.

WAC 296-104-125, inspection, clarifies certificate requirement, uses clear rule writing.

WAC 296-104-135, inspection, replaces "ASME" with "code," uses clear rule writing.

WAC 296-104-140, inspection, clarifies applying state stamp to new vessel, uses clear rule writing.

WAC 296-104-115, 296-104-130, 296-104-145, 296-104-150, 296-104-151, 296-104-160, and 296-104-170, inspection, clear rule writing.

WAC 296-104-155, inspection, clarifies preparation for internal inspection, uses clear rule writing.

WAC 296-104-165, inspection, clarifies removal of covering prior to inspection, uses clear rule writing.

WAC 296-104-502, repairs, clarifies requirements for repairs and alterations.

Proposal Changes the Following Existing Rules: See above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The Board of Boiler Rules and the department have considered whether these rules are subject to the Regulatory Fairness Act and have determined that they are not for the following reasons:

The changes made below are for clarification of existing rules of chapter 296-104 WAC and consistency with national codes and standards and changes to chapter 70.79 RCW. Clear rule writing was used in the clarifying and those rules

covered elsewhere or were obsolete were deleted. No fees were increased.

**SUMMARY OF PROPOSED RULE:** The boiler section of the Department of Labor and Industries is proposing multiple changes to chapter 296-104 WAC, Board of boiler rules. The proposed amendments will make the current standard consistent with national codes and standards, and make the intent of the standard more clear.

Based on discussions with program staff, the proposed changes will generate no economic impact on business.

**Small Business Economic Impact Statement:** The Regulatory Fairness Act, chapter 19.85 RCW, requires that the economic impact of proposed regulations be analyzed in relation to small business, and outlines the information that must be included in a small business economic impact statement (SBEIS). Preparation of a SBEIS is required when a proposed rule has the potential of placing a more than minor economic impact on business.

However, in this instance, the proposed rule does not have the potential of placing a more than minor economic impact on business. Thus, a SBEIS is not required.

**Evaluation of Probable Costs and Probable Benefits:** The department is further exempted from evaluating the probable costs and probable benefits of the proposed rule as required by RCW 34.05.328 (1)(c) of the Administrative Procedure Act, based on the fact that the proposed rule is not considered "significant," as defined by the legislature.

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

Hearing Location: Labor and Industries, 7273 Linderson Way S.W., Tumwater, on September, 21, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Dick Barkdoll by September 20, 1999.

Submit Written Comments to: Dick Barkdoll, Labor and Industries, Boiler Section, P.O. Box 44410, Olympia, WA 98504-4410, fax (360) 902-5272, by September 20, 1999.

Date of Intended Adoption: October 15, 1999.

August 11, 1999

Frank Sanchez

Chair

AMENDATORY SECTION (Amending Promulgation, filed 3/23/60)

**WAC 296-104-001 ((Promulgation)) Administration—To what do these rules apply?** The following rules and regulations apply to all boilers and unfired pressure vessels except those exempt under ((section 8, chapter 32, Laws of 1951-))RCW 70.79.080((§)). Boilers and unfired pressure vessels listed under ((section 9, chapter 32, Laws of 1951-))RCW 70.79.090((§)) are exempt from inspection and fees, but shall comply with all rules for construction, installation, repairs and general requirements.

((The following rules and regulations were formulated in accordance with the law and are hereby promulgated. Date: December 18, 1958.))

AMENDATORY SECTION (Amending WSR 98-22-024, filed 10/28/98, effective 11/28/98)

**WAC 296-104-010 ((Definitions.)) Administration—  
What are the definitions of terms used in this chapter?**

"**Agriculture purposes**" shall mean any act performed on a farm in production of crops or livestock, and shall include the storage of such crops and livestock in their natural state, but shall not be construed to include the processing or sale of crops or livestock.

"**API-510**" shall mean the Pressure Vessel Inspection Code of the American Petroleum Institute with addenda and revisions, thereto made and approved by the institute which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"**ASME Code**" shall mean the boiler and pressure vessel code of the American Society of Mechanical Engineers with amendments thereto made and approved by the council of the society which have been adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

"**Attendant**" shall mean the person in charge of the operation of a boiler or unfired pressure vessel.

"**Automatic operation of a boiler**" shall mean unattended control of feed water and fuel in order to maintain the pressure and temperature within the limits set. Controls must be such that the operation follows the demand without interruption. Manual restart may be required when the burner is off because of low water, flame failure, power failure, high temperatures or pressures.

"**Board of boiler rules**" or "**board**" shall mean the board created by law and empowered under RCW 70.79.010.

"**Boilers and/or pressure vessels**" - below are definitions for types of boilers and pressure vessels used in these regulations:

- "**Condemned boiler or unfired pressure vessel**" shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by an inspector who has applied a stamping or marking designating its condemnation.
- "**Low pressure heating boiler**" shall mean a steam or vapor boiler operating at a pressure not exceeding 15 psig or a boiler in which water or other fluid is heated and intended for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy including lined potable water heaters.
- "**Nonstandard boiler or unfired pressure vessel**" shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.
- "**Power boiler**" shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water or other fluid is heated and intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250 degrees F by the

direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.

- "**Reinstalled boiler or unfired pressure vessel**" shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.
- "**Rental boiler**" shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.
- "**Second hand boiler or unfired pressure vessel**" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.
- "**Standard boiler or unfired pressure vessel**" shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.
- "**Unfired pressure vessel**" shall mean a closed vessel under pressure excluding:
  - \* Fired process tubular heaters;
  - \* Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;
  - \* Piping whose primary function is to transport fluids from one location to another;
  - \* Those vessels defined as low pressure heating boilers or power boilers.
- "**Unfired steam boiler**" shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels.

"**Certificate of competency**" shall mean a certificate issued by the state board of boiler rules to a person who has passed an examination prescribed by the board of boiler rules.

((~~"Chief inspector" shall mean the inspector appointed under RCW 70.79.100.~~))

"**Commission**" shall mean an annual state commission/commission card issued to a person in the employ of the state, an insurance company or a company owner/user inspection agency holding a certificate of competency which authorizes them to perform inspections of boilers and/or unfired pressure vessels.

((~~"Condemned boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by an inspector who has applied a stamping or marking designating its condemnation.~~))

"**Department**" as used herein shall mean the department of labor and industries of the state of Washington.

((~~"Deputy inspector" shall mean an inspector appointed under RCW 70.79.120.~~))

PROPOSED

"Director" shall mean the director of the department of labor and industries.

"Domestic and/or residential purposes" shall mean serving a private residence or an apartment house of less than six families.

"Existing installations" shall mean any boiler or unfired pressure vessel constructed, installed, placed in operation, or contracted for before January 1, 1952.

"External inspection" shall mean an inspection made while a boiler or unfired pressure vessel is in operation and includes the inspection and demonstration of controls and safety devices required by these rules.

~~("Hot water heater" shall mean a closed vessel designed to supply hot water for external use to the system. All vessels must be listed by a nationally recognized testing agency and shall not exceed any of the following limits:~~

- ~~(a) Pressure of 160 psi (1100 kpa);~~
- ~~(b) Temperature of 210 degrees F (99 C);~~
- ~~(c) Capacity of 120 U.S. gallon (454 liters);~~
- ~~(d) Input of 200,000 BTU/hr (58.58 kw).~~

~~Each vessel shall be protected with an approved temperature and pressure safety relief valve.)~~

"Inspector" shall mean the chief boiler inspector, a deputy inspector, or a special inspector.

- "Chief inspector" shall mean the inspector appointed under RCW 70.79.100 who serves as the secretary to the board without a vote.
- "Deputy inspector" shall mean an inspector appointed under RCW 70.79.120.
- "Special inspector" shall mean an inspector holding a Washington commission identified under RCW 70.79.130.

"Internal inspection" shall mean an inspection made when a boiler or unfired pressure vessel is shut down and handholes, manholes, or other inspection openings are open or removed for examination of the interior. An external ultrasonic examination of unfired pressure vessels 36" inside diameter and under, shall constitute an internal inspection.

~~("Low pressure heating boiler" shall mean a steam or vapor boiler operating at a pressure not exceeding 15 psig or a boiler in which water or other fluid is heated and intended for operation at pressures not exceeding 160 psig or temperatures not exceeding 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy including lined potable water heaters.)~~

"Nationwide engineering standard" shall mean a nationally accepted design method, formulae and practice acceptable to the board.

"NBIC" shall mean the National Board Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors with addenda and revisions, thereto made and approved by the National Board of Boiler and Pressure Vessel Inspectors and adopted by the board of boiler rules in accordance with the provisions of RCW 70.79.030.

~~("Nonstandard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel that does not bear marking of the codes adopted in WAC 296-104-200.)~~

"Owner" or "user" shall mean a person, firm, or corporation owning or operating any boiler or unfired pressure vessel within the state.

"Owner/user inspection agency" shall mean an owner or user of pressure vessels that maintains an established inspection department, whose organization and inspection procedures meet the requirements of a nationally recognized standard acceptable to the department.

"Place of public assembly" or "assembly hall" shall mean a building or portion of a building used for the gathering together of 50 or more persons for such purposes as deliberation, education, instruction, worship, entertainment, amusement, drinking, or dining or waiting transportation. This shall also include child care centers (those agencies which operate for the care of thirteen or more children), public and private hospitals, nursing and boarding homes.

~~("Power boiler" shall mean a boiler in which steam or other vapor is generated at a pressure of more than 15 psig for use external to itself or a boiler in which water or other fluid is heated and intended for operation at pressures in excess of 160 psig and/or temperatures in excess of 250 degrees F by the direct application of energy from the combustion of fuels or from electricity, solar or nuclear energy.~~

~~"Reinstalled boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel removed from its original setting and reset at the same location or at a new location without change of ownership.~~

~~"Rental boiler" shall mean any power or low pressure heating boiler that is under a rental contract between owner and user.~~

~~"Second hand boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel of which both the location and ownership have changed after primary use.)~~

"Special design" shall mean a design using nationwide engineering standards other than the codes adopted in WAC 296-104-200 or other than allowed in WAC 296-104-230.

~~("Special inspector" shall mean an inspector holding a Washington commission identified under RCW 70.79.130.~~

~~"Standard boiler or unfired pressure vessel" shall mean a boiler or unfired pressure vessel which bears the marking of the codes adopted in WAC 296-104-200.~~

"Unfired pressure vessel" shall mean a closed vessel under pressure excluding:

- (a) Fired process tubular heaters;
- (b) Pressure containers which are integral parts of components of rotating or reciprocating mechanical devices where the primary design considerations and/or stresses are derived from the functional requirements of the device;
- (c) Piping whose primary function is to transport fluids from one location to another;
- (d) Those vessels defined as low pressure heating boilers or power boilers.

"Unfired steam boiler" shall mean a pressure vessel in which steam is generated by an indirect application of heat. It shall not include pressure vessels known as evaporators, heat exchangers, or vessels in which steam is generated by the use of heat resulting from the operation of a processing system containing a number of pressure vessels, such as used in the



manufacture of chemical and petroleum products, which will be classed as unfired pressure vessels:))

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

WAC 296-104-015 Administration—~~((Board meetings))~~ When and where are the board meetings held? The board of boiler rules shall hold its regular meetings in January, March, May, September and November of each year. The time, place, and date of each regular meeting shall be set by the chairman of the board and published annually. Special meetings may be called by the ~~((chairman when considered necessary by the board. The chief inspector will serve as secretary to the board without vote))~~ chair.

AMENDATORY SECTION (Amending WSR 92-11-070, filed 5/20/92, effective 6/20/92)

WAC 296-104-018 Administration—~~((Rule interpretation and revision))~~ How are rules interpreted and revised? Stakeholders may request clarifications and interpretations of these rules by contacting the chief inspector. Interpretations will be brought to the board if the inquirer is aggrieved by the interpretation of the chief inspector (RCW 70.79.360). The board will consider written requests for interpretations and revisions to these definitions, rules, and regulations. Inquiries shall be limited to requests for interpretation of the rules or to proposed revisions to the existing rules and shall be submitted in the following format:

- (1) Scope. ~~((Involve))~~ Identify a single rule or closely related rules that are in dispute.
- (2) Background. State the purpose of the inquiry, which should be either to obtain an interpretation or to propose a revision to existing rules. Provide concise information needed for the board's understanding of the inquiry, including references to the WAC section as well as other code and/or standards paragraphs.
- (3) Inquiry structure. Provide statements in a condensed and precise question format and, where appropriate, compose in such a way that "yes" or "no" (perhaps with provisos) would be an acceptable reply.
- (4) Proposed reply. State what it is believed the rule requires. If in the inquirer's opinion a revision to the definitions, rules, and regulations is needed, recommended wording should be provided.

Inquiries shall be submitted by mail to:  
Board of Boiler Rules  
% Chief Inspector  
Department of Labor & Industries  
~~((B&CSIS))~~  
Boiler Section  
P.O. Box 44410  
Olympia, WA 98504-4410

or

Inquires shall be submitted by delivery to:  
Board of Boiler Rules  
% Chief Inspector

Department of Labor & Industries  
Boiler Section  
7273 Linderson Way SW  
Tumwater, WA 98501

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

WAC 296-104-020 Administration—~~((Filing requirements before installation))~~ What are the filing requirements for boilers and pressure vessels before their installation? Manufacturers data reports on boilers and pressure vessels as required by the provisions of the ~~((ASME))~~ construction codes shall be filed by the owner or his agent with the chief inspector or the National Board of Boiler and Pressure Vessel Inspectors before installation. When the boilers or pressure vessel are of special design or construction not covered by the ~~((ASME))~~ construction codes (unless otherwise exempted by the rules and regulations), the owner or user shall apply to the board of boiler rules in writing for permission to install such boilers or pressure vessels and shall supply such details of design and construction as may be required by the board of boiler rules and approval shall be secured before construction is started. When second hand boilers or pressure vessels are to be reinstalled, the owner or user shall file a data report or construction details, as required, and secure approval from the chief inspector before starting installation.

AMENDATORY SECTION (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

WAC 296-104-025 Administration—~~((Owner to notify chief inspector of accidents))~~ What are the notification requirements following an accident involving a boiler or pressure vessel? When an accident occurs which renders a boiler or unfired pressure vessel inoperative, the owner or user shall notify the chief inspector, and submit a detailed report of the accident. In cases of accidents, such as explosions or those resulting in personal injury, notice to the chief inspector shall be given immediately by telephone or electronic means designed to assure its earliest possible receipt. Neither the boiler or unfired pressure vessel nor any parts thereof shall be removed or disturbed before an inspection has been made by the chief inspector, or his designee except for the purpose of saving life or limiting consequential damage. The inspector making the investigation and inspection shall report to the chief inspector as soon as possible. The boiler or pressure vessel owner shall be responsible for all costs of the department's investigation.

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

WAC 296-104-030 Administration—What is the penalty for operation of unsafe boilers or unfired pressure vessels? ~~((:))~~ In the event that a boiler or unfired pressure vessel is unsafe to operate, the inspection certificate shall be suspended. Any person, firm, partnership, or corporation

PROPOSED

causing such objects to be operated under pressure without a valid certificate of inspection shall be in violation of RCW 70.79.320 and subject to the penalties specified in WAC 296-104-701.

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-035 Administration—**~~((Conflict of interests.))~~ **What are conflicts of interest for inspectors?** Inspectors commissioned by the state of Washington shall not engage in the sale of any service, article, or device or promote any other activity for personal gain relating to boilers or unfired pressure vessels or their appurtenances.

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-040 Administration—**~~((Inspector's inspection reports.))~~ **When should inspectors submit inspection reports and on what forms?** Inspectors shall submit reports of inspections of boilers and unfired pressure vessels on appropriate forms approved by the chief inspector. Routine reports of inspections shall be submitted within thirty days of inspection. Reports of reinspection after suspension of an inspection certificate shall be submitted by an inspector employed by the in-service inspection agency as soon as notice of corrective action has been received ~~((so that the vessel certificate can be reinstated and the boiler or unfired pressure vessel lawfully operated)).~~

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-045 Administration—**~~((Insurance companies' responsibilities.))~~ **What are the insurance companies' responsibilities?** All insurance companies shall notify the chief inspector within thirty days of all boiler and/or unfired pressure vessel risks written, canceled, not renewed or suspended because of unsafe conditions. Special inspectors shall perform all in-service inspections of boilers and unfired pressure vessels insured by their employer. After a repair or alteration the in-service inspector is responsible to assure ~~((an R-1))~~ a Record of Welded Repair form is completed and submitted to the department.

AMENDATORY SECTION (Amending WSR 94-21-002, filed 10/5/94, effective 11/5/94)

**WAC 296-104-050 Administration—**~~((Examination for inspector.))~~ **What examinations must a boiler inspector take?** Examination for certificate of competency shall be held at locations selected by the board, four times each year, namely, the first Wednesday and following Thursday of the months of March, June, September and December. Special examinations ~~((will))~~ may be held when considered necessary by the board.

Applicants for examination shall have had at least three years practical experience in the construction, maintenance,

repair or operation of high pressure boilers or unfired pressure vessels as a mechanical engineer, steam engineer or boiler maker, or shall have had at least three years experience as an inspector of high pressure boilers and/or unfired pressure vessels. A credit of two years of the required experience will be given to applicants holding an engineering degree from a recognized college of engineering.

Application for examination for certificate of competency shall be in writing upon a form to be furnished by the director stating the school and education of the applicant, a list of ~~((his))~~ employers, ~~((his))~~ period of employment and position held with each employer. Applications containing willful falsification or untruthful statements shall be rejected.

If the applicant's history and experience meet with the approval of the board of boiler rules, ~~((he))~~ the candidate shall be given a written examination ~~((dealing)).~~ The test will deal with Washington state boilers and unfired pressure vessels law as well as the construction, installation, operation, maintenance and repair of boilers and/or unfired pressure vessels and their appurtenances ~~((, and the applicant shall be accepted or rejected on the merits of this examination. If the applicant is successful in meeting the requirements of the examining board, a certificate of competency will be issued)).~~ If the applicant is accepted on the merits of this examination, a certificate of competency will be issued by the chief inspector.

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

**WAC 296-104-055** ~~((Examination fees.))~~ **Administration—What are the examination fees?** A fee of sixty dollars will be charged for each applicant ~~((taking the))~~ sitting for an inspection examination(s) ~~((for a certificate of competency or any examination sponsored by the National Board of Boiler and Pressure Vessel Inspectors)).~~ If an applicant fails to pass the examination this fee shall be good for one year during which a reexamination may be taken. Checks for examination fees shall be made payable to the state treasurer.

AMENDATORY SECTION (Amending WSR 94-21-002, filed 10/5/94, effective 11/5/94)

**WAC 296-104-060** ~~((Commissions as inspectors.))~~ **Administration—When shall inspectors' commissions be issued, suspended, or revoked?** Upon the request of any company authorized to insure and insuring against loss from explosion of boilers and/or unfired pressure vessels in this state, or upon the request of any company with an owner/user inspection agency operating boilers and/or unfired pressure vessels in this state, the chief inspector shall issue a commission as a special inspector and an identifying commission card to any inspector actively engaged in boiler and/or unfired pressure vessel inspection in this state ~~((if the inspector))~~ as long as he/she:

- Is employed by the requesting company, and ~~((if the inspector))~~
- Has passed the written examination, and holds a certificate of competency as set forth in WAC 296-104-050.

The fee for the commission is twenty-five dollars. The commission shall be held at the home office of the employing company. Inspectors shall carry identifying commission cards while they are inspecting. A commission shall be valid for one year and may be renewed annually at the request of the employing company for a fee of ten dollars. The employing company shall return the commission and the identifying commission card at once to the chief inspector when the inspector to whom the commission was issued is no longer in its employ, or at the request of the chief inspector.

The department may suspend or revoke a certificate of competency and commission issued to an inspector upon ten days notice to the inspector and to the inspector's employer for:

- Incompetency or untrustworthiness; (~~for~~)
- Willful falsification of any matter or statement contained in (~~his~~) the application, or in the report of any inspection(~~, or in any other application~~); or
- For other sufficient reason.

The holder of a certificate of competency is entitled to a hearing before the board prior to the revocation or suspension of the certificate of competency. A person whose commission has been suspended, except for untrustworthiness, may apply to the board for reinstatement. A person whose commission has been revoked, except for untrustworthiness, may apply to the board to take a new examination for a commission after ninety days from the date of the revocation.

**AMENDATORY SECTION** (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

**WAC 296-104-065 Administration—(~~Reciprocal commissions~~) How should a certified or commissioned inspector obtain a Washington state commission?** Upon the request of a boiler insurance company authorized to insure and insuring against loss from explosion of boilers and/or unfired pressure vessels in this state, or a company with an owner/user inspection agency, a commission as a special inspector of boilers and/or unfired pressure vessels shall be issued by the chief inspector to an inspector in the employ of such company provided the inspector has had the experience prescribed in RCW 70.79.130 and:

(1) Passed an examination covering the Washington state boilers and unfired pressure vessels law, chapters 70.79 RCW and 296-104 WAC; and

(2) Holds a certificate of competency or commission issued by a state which has adopted one or more sections of the ASME Code, or a national board commission, in either case having taken and passed a written examination equivalent to that required by the state of Washington; or

~~((2))~~ (3) Is certified by the American Petroleum Institute in accordance with API-510, having taken and passed a written examination equivalent to that required by the state of Washington.

Application for a reciprocal commission shall be made on a form to be furnished by the chief inspector, and shall be accompanied by a copy of the applicant's certificate of competency or a National Board Commission; or an API certificate and evidence of having passed the API examination.

**AMENDATORY SECTION** (Amending WSR 98-22-024, filed 10/28/98, effective 11/28/98)

**WAC 296-104-100 Inspection—How often must boilers and unfired pressure vessels be inspected?** (1) **Power boilers** shall be inspected:

(a) Internally and externally while not under pressure - Annually.

(b) Externally while under pressure - Annually.

(2) **Organic vapor boilers** shall be inspected:

(a) Internally and externally while not under pressure - Biennially.

(b) Externally while under pressure - Annually.

(3) **Low pressure heating boilers** shall be inspected:

(a) Externally while under pressure - Biennially.

(b) Internally while not under pressure (except where construction does not permit an internal) - (~~Biennially~~) Every 4th year.

(c) Internally, all steam heating boilers will have as a minimum, an internal of their low water fuel cutoff - Biennially.

(d) Internally, none required for nonvapor boilers using glycol, oil or adequately treated with a corrosion inhibitor.

(4) **Hot water heaters** shall be inspected:

(a) Externally - Biennially.

(b) Internally - None required.

(5) **Unfired pressure vessels** shall be inspected:

(a) Externally - Biennially.

(b) Internally:

(i) When subject to corrosion and construction permits - Biennially; or

(ii) Vessels in an owner/user inspection program may follow intervals established by the NBIC or API-510, provided nondestructive examination (NDE) is performed at the biennial external inspection; or

(iii) Pulp or paper dryer rolls may be inspected on a five-year basis in accordance with TAPPI TIS 0402-16, provided the owner has established a written inspection program accepted by the inspector that requires the minimums in section 8 of TAPPI TIS 0402-16; or

(iv) Vessels not subject to corrosion do not require an internal.

**AMENDATORY SECTION** (Amending WSR 98-22-024, filed 10/28/98, effective 11/28/98)

**WAC 296-104-102 Inspection—What are the standards for in-service inspection?** (1) Where a conflict exists between the requirements of the standards listed below and this chapter, this chapter shall prevail.

(2) The standard for inspection of nonnuclear boilers, unfired pressure vessels, and safety devices is the National Board Inspection Code (NBIC), (~~(1995)~~) 1998 edition, with addenda. This code may be used on or after the date of issue and becomes mandatory twelve months after adoption by the board as specified in RCW 70.79.050(2).

(3) The standard for inspection of nuclear items is ASME section XI. The ASME Code edition and addenda

PROPOSED

shall be as specified in the owner in-service inspection program plan.

(4) Where a petroleum or chemical process industry owner/user inspection agency so chooses, the standard for inspection of unfired pressure vessels used by the owner shall be the API-510 Pressure Vessel Inspection Code, eighth edition, with supplements. This code may be used on or after the date of issue.

(5) TAPPI TIS 0402-16, dated 1995 may be used for both pulp dryers and paper machine dryers when requested by the owner. When requested by the owner, this document becomes a requirement and not a guideline.

**AMENDATORY SECTION** (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-105 Inspection—**~~((Notification of inspection.))~~ **How much time is required for notification of inspection? Seven days will be considered sufficient notification.** The owner or user shall prepare each boiler and unfired pressure vessel for internal inspection and shall prepare for and apply a hydrostatic pressure test whenever necessary on the date specified by the inspector. ~~((Seven days will be considered sufficient notification.))~~

**AMENDATORY SECTION** (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-110 Inspection—**~~((Unsafe or defective boilers or unfired pressure vessels.))~~ **What will be done when boilers or unfired pressure vessels are deemed unsafe or defective?** ~~((If an inspector,))~~ Upon inspection of a boiler or unfired pressure vessel or appurtenances, if an inspector finds hazardous conditions such that it is unsafe to operate under pressure, remedial action shall be initiated at once. A red tag indicating "unsafe - do not use" shall be attached to the principle operating control and the owner or user advised that further operation is prohibited until specified repairs or other action are taken. The chief inspector shall be notified immediately, followed by a report on the condition. Any certificate in force is considered suspended. When reinspection establishes that necessary repairs have been made or corrective action taken so that the boiler or unfired pressure vessel is safe to operate, a report of reinspection shall be submitted to the chief inspector. The certificate of inspection will then be reinstated or a new certificate issued as appropriate.

If other defects, but not unsafe conditions, are found, a routine inspection report containing a noncompliance report shall be submitted to the chief inspector ~~((and)).~~ The owner or user shall be allowed to operate the object for a period as specified by the inspector ~~((until))~~ so long as corrective action is completed in the allotted time.

**AMENDATORY SECTION** (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-115 Inspection—**~~((Defective conditions concealed by covering.))~~ **What will be done when**

**defective conditions are concealed by covering?** If upon an external inspection there is evidence of a leak or crack, enough of the covering of the boiler or unfired pressure vessel shall be removed to satisfy the inspector in order ~~((that he/she may))~~ to determine ~~((as to))~~ the safety of the boiler or unfired pressure vessel~~((or)).~~ If the covering cannot be removed at the time, ~~((he))~~ the inspector may order the operation of the boiler or unfired pressure vessel stopped until such time as the covering can be removed and proper examination made.

**AMENDATORY SECTION** (Amending Part III, filed 3/23/60)

**WAC 296-104-125 Inspection—**~~((Certificate fees.))~~ **Are certificate fees required?** If upon inspection a boiler or unfired pressure vessel is found to be suitable for use and to conform to these rules and regulations, the owner or user shall pay certificate fees as scheduled in WAC 296-104-700 directly to the chief inspector ~~((fees as scheduled in RCW 70.79.290. Inspections are)).~~ The inspection process is not complete until the certificate of inspection is posted.

If the owner or user of each boiler or unfired pressure vessel required to be inspected refuses to allow an inspection to be made, or refuses to pay the above fee, the certificate of inspection shall be suspended by the chief inspector until the owner or user complies with the requirements.

**AMENDATORY SECTION** (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-130 Inspection—**~~((Validity of inspection certificate.))~~ **When are inspection certificates valid?** An inspection certificate, issued in accordance with RCW 70.79.290, shall be valid until expiration unless some defect or condition affecting the safety of the boiler or unfired pressure vessel is disclosed or the conditions of RCW 70.79.300 apply.

When ~~((portable unfired pressure vessels are inspected and certified by))~~ an agreement exists between the state ~~((or))~~ and the city jurisdictions of Spokane, Seattle or Tacoma, the certificates for portable boilers and unfired pressure vessels will be considered valid ~~((certificates provided they are posted on or near the vessel, and provided there is an agreement between that city and the state)).~~

**AMENDATORY SECTION** (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-135 Inspection—****What are the requirements for restamping of boilers and unfired pressure vessels~~((?))~~?** When the stamping on a boiler or unfired pressure vessel becomes indistinct the inspector shall instruct the owner or user to have it restamped. Request for permission to restamp the boiler or unfired pressure vessel shall be made to the chief inspector and proof of the original stamping shall accompany the request. Restamping authorized by the chief inspector shall be done only in the presence of an inspector, and shall be identical with the original stamping

except that it will not be required to restamp the ((ASME)) code symbol. Notice of completion of such restamping shall be filed with the chief boiler inspector by the inspector who witnessed the restamping of the boiler or unfired pressure vessel together with a facsimile of the stamping applied.

AMENDATORY SECTION (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

**WAC 296-104-140 Inspection—((State stamp-)) How should a state stamp be applied?** Upon completion of the installation, all boilers and unfired pressure vessels shall be inspected by the chief inspector, a deputy inspector, or a special inspector. At the time of this inspection, each boiler or unfired pressure vessel shall be marked with a serial number of the state of Washington followed by the letter ("W," said letter and figures to be not less than 5/16 in. in height. The marking shall not be concealed by lagging or paint and shall be exposed at all times-)) "W."

Data sheets shall be made available at the time of first inspection if not filed with the national board.

Washington special numbers when assigned by the chief inspector shall be preceded by the letters((:)) "WS."

All rental boilers used in the state of Washington shall be marked with the serial number of the state of Washington followed by the letters "WR." This will indicate that the boiler is a rental unit.

The state of Washington markings, numbers and letters, referenced above, shall not be less than 5/16 ((in)) inches in height((-The marking)) and shall not be concealed by lagging or paint and shall be exposed at all times.

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-145 Inspection ((of systems-))—How are groups of vessels operating as a single unit classified?** A group of unfired pressure vessels operating as a single unit such as the vessels in a refrigeration system, evaporators, ironers and paper machines may be given one number, designating the different vessels of the unit as a-b-c, etc. The inspector's report shall cover all pressure vessels in the system individually. One certificate shall be issued for the unit. Certificate charge shall be as outlined in RCW 70.79.290, for each vessel of the system.

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-150 Inspection—How are unfired steam boilers((:)) classified?** Unfired steam boilers operating at pressures of 50 psi or more shall be inspected as power boilers. Unfired steam boilers operating at less than 50 psi shall be inspected as unfired pressure vessels.

AMENDATORY SECTION (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

**WAC 296-104-151 Inspection—((Rental boilers-)) What are the requirements for rental boilers? ((Any))**

Every rental boiler used in the state of Washington will have an internal inspection completed once a year. An operating inspection under pressure shall be conducted by the chief inspector, a deputy inspector, or a special inspector at each and every rental location before being placed into service.

((Any)) A rental boiler, which has never been in rental service in the state of Washington, will have a satisfactory hydrostatic test completed along with an initial internal inspection prior to having a state number issued. Each operating inspection will be reported to the state of Washington using the standard inspection form and a copy of this report will be posted on the rental boiler.

Inspections will be the responsibility of the rental boiler owner but may be completed by the user's special inspector.

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-155 Inspection—((Preparation for internal inspection-)) What preparations are necessary prior to internal inspections?** The owner or user shall prepare a boiler for internal inspection in the following manner or as required by the inspector:

((a)) (1) Water shall be drawn off and the boiler thoroughly washed.

((b)) (2) All manhole and handhole plates and wash-out plugs and water column connections shall be removed, the furnace and combustion chambers thoroughly cooled and cleaned.

((c)) (3) All grates of internally fired boilers shall be removed.

((d)) (4) At each annual inspection brickwork shall be removed as required by the inspector in order to determine the condition of the boiler headers, furnace, supports, or other parts.

((e)) (5) The steam gauge shall be removed for testing or evidence of testing shown.

((f)) (6) Any leakage of steam or hot water into the boiler shall be cut off by disconnecting the pipe or valve at the most convenient point.

((g)) (7) The low water cutout shall be disassembled to such a degree as the inspector shall require.

Unfired pressure vessels shall be prepared for internal inspection to the extent deemed necessary by the inspector.

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-160 Inspection—What happens if a boiler((s)) or unfired pressure vessel((s)) is improperly prepared for inspection((:))?** If a boiler or unfired pressure vessel has not been properly prepared for an internal inspection, or the owner or user fails to comply with the requirements for hydrostatic test as set forth in these rules, the inspector may decline to make the inspection or test and the certificate of inspection shall be withheld until the owner or user complies with the requirements.

((Unfired pressure vessels shall be prepared for inspection to the extent deemed necessary by the inspector-))

AMENDATORY SECTION (Amending WSR 95-19-058, filed 9/15/95, effective 10/16/95)

**WAC 296-104-165 Inspection—**~~((Removal of covering to permit inspection.))~~ **When should coverings be removed for inspection?** If the boiler or unfired pressure vessel is jacketed ~~((se))~~ such that the longitudinal seams of shells, drums, or domes cannot be seen, ~~or if pertinent information cannot be determined by other means, the following may be ordered by the inspector:~~ Enough of the jacketing, setting wall, or other form of casing or housing shall be removed so that ~~((the size of the rivets, pitch of the rivets, and other data))~~ information necessary to determine the safety of the boiler or unfired pressure vessel ~~((may))~~ can be obtained ~~((provided such information cannot be determined by other means))~~ to the satisfaction of the inspector.

AMENDATORY SECTION (Amending WSR 96-21-081, filed 10/16/96, effective 11/16/96)

**WAC 296-104-170 Inspection—**~~((Shop inspections.))~~ **When are shop inspections required?** Shop inspections shall be as required in the applicable sections of the ASME Code. Only inspectors holding a national board commission with the appropriate endorsements and a commission issued by the state of Washington shall make shop inspections in this state. Supervisors of inspectors who perform shop inspections in the state need only a National Board Commission with the appropriate endorsements.

Upon request from a boiler or pressure vessel manufacturer holding an ASME Certificate of Authorization within the jurisdiction, the department shall provide inspection services as required by the ASME Code. The manufacturer receiving such inspection services shall reimburse the department for the time and expenses in accordance with the fee schedule established in WAC 296-104-700.

AMENDATORY SECTION (Amending WSR 98-22-024, filed 10/28/98, effective 11/28/98)

**WAC 296-104-502 Repairs—What are the requirements for nonnuclear boilers and unfired pressure vessel repairs and alterations?** Repairs and alterations to nonnuclear boilers and pressure vessels shall be made in accordance with the rules of the National Board Inspection Code (NBIC) as adopted in WAC 296-104-102.

Repairs/alterations may be made by:

(1) An organization authorized by the jurisdiction and in possession of a valid Certificate of Authorization for use of the "R" symbol stamp, issued by the National Board provided such repairs/alterations are within the scope of the authorization.

(2) An organization authorized by the chief inspector and in possession of a valid ASME Certificate of Authorization provided such repairs/alterations are within the scope of the organization's Quality Control System. The chief inspector may limit or restrict repairs/alterations for cause.

Owner/user special inspectors may only accept repairs/alterations to boilers and unfired pressure vessels operated by their respective companies per RCW 70.79.130.

Where required, ~~((reports))~~ record of welded repairs/alterations, signed by the organization and a commissioned inspector shall be submitted to the ~~((department))~~ chief inspector.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 296-104-002 Approval by director.
- WAC 296-104-107 Inspection—Which unfired pressure vessels in places of public assembly are subject to these rules?

**WSR 99-17-029**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed August 11, 1999, 10:01 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-11-041.

Title of Rule: WAC 458-20-246 Sales to or through a direct seller's representative.

Purpose: Explains the exemption from wholesaling and retailing business and occupation (B&O) tax for persons meeting the statutory requirements as direct sellers.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.423.

Summary: This rule explains the application of the B&O tax exemption available for sales of "consumer products" by certain out-of-state persons to or through direct seller's representatives. It provides pertinent definitions, and identifies the statutory requirements the out-of-state person must satisfy to qualify for this exemption. The rule also explains that the out-of-state seller is required to collect and remit the appropriate retail sales or use tax, even if the sales qualify for the B&O tax exemption. The proposed changes provide additional guidance regarding the specific requirements of the statute.

Reasons Supporting Proposal: The proposed revisions to this rule result in the application of the B&O tax exemption in a manner consistent with the statutory requirements.

Name of Agency Personnel Responsible for Drafting: Leslie Cushman, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 664-0057; 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 proposed rule amendment is intended to bring

PROPOSED

department practice into line with the statutory requirements. Since the enactment of the exemption in 1983, the department has in some cases incorrectly applied the exemption more broadly than it should have. The rule is being revised to provide explicit and descriptive information as to who is eligible for the exemption and under what circumstances a person is eligible. The proposed changes to the existing rule are consistent with the requirements in the statute and are consistent with the federal criteria upon which the statutory conditions were based.

Proposal Changes the Following Existing Rules: The proposal is a revision to an existing rule. Additional information regarding eligibility is being added to the rule in order to give taxpayers and department personnel more guidance and explicit direction.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule and the proposed amendment do not impose any requirements or burdens upon small businesses that are not already specifically required by statute.

RCW 34.05.328 does not apply to this rule adoption. This is an interpretive rule that sets forth the Department of Revenue's interpretation of RCW 82.04.423, which it administers.

Hearing Location: Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way South, Olympia, WA, on September 29, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Ginny Dale no later than ten days before the hearing date, TDD 1-800-451-7985, or (360) 586-0721.

Submit Written Comments to: Leslie Cushman, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail LeslieC@dor.wa.gov, by October 15, 1999.

Date of Intended Adoption: October 22, 1999.

August 11, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy Division

**AMENDATORY SECTION** (Amending Order 84-3, filed 11/30/84)

**WAC 458-20-246 Sales to or through a direct seller's representative.** (~~Under RCW 82.04.423, the business and occupation tax does not apply to any out-of-state person in respect to the gross income derived from the business of making sales in this state of "consumer products" at wholesale or retail to or through a "direct seller's representative," subject to certain requirements explained more fully below. The effective date of this exemption is August 23, 1983. For an outline of the tax liability of persons making sales of goods which originate in other states to customers in Washington, other than sales to or through a "direct seller's representative," see WAC 458-20-193B.~~

## Definitions

For purposes of the exemption explained herein, the following definitions shall apply:

The term "consumer product" means any article of tangible personal property, or component part thereof, of the type sold for personal use or enjoyment. The term includes only those kinds of items of tangible personal property which are customarily sold at stores, shops, and retail outlets open to the public in general. It includes such things as home furnishings, clothing, personal effects, household goods, food products, and similar items purchased for personal use or consumption. The term does not include commercial equipment, manufacturing items, industrial use products, and the like, including component parts thereof. However, if a product is primarily used for personal use or enjoyment, it remains a "consumer product" within this definition notwithstanding that a portion of the product's distribution is for commercial, industrial, or manufacturing purposes.

A "direct seller's representative" is a person who (a) buys "consumer products" on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or other than in a permanent retail establishment or (b) sells or solicits the sale of, "consumer products" in the home or other than in a permanent retail establishment. In order to be considered a "direct seller's representative" a person must also show that:

1. Substantially all of the remuneration paid, whether or not paid in cash, for the performance of services is directly related to sales or other output, including the performance of services, rather than the number of hours worked; and
2. The services performed are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for federal tax purposes.

## Business and Occupation Tax

**Wholesaling and retailing.** The business and occupation tax does not apply to an out-of-state seller making wholesale or retail sales to or through a "direct seller's representative." The out-of-state seller must show that it is represented in this state by a "direct seller's representative," as defined above. In addition, the out-of-state seller must also show that it:

1. Does not own or lease real property within this state;
2. Does not regularly maintain a stock of tangible personal property in this state for sale in the ordinary course of business;
3. Is not a corporation incorporated under the laws of this state; and
4. Makes sales in this state exclusively to or through a "direct seller's representative."

Thus, a representative who solicits sales of "consumer products" in this state, other than in a permanent retail establishment, and also meets the other requirements of the law as set forth above, qualifies as a "direct seller's representative." If the out-of-state seller and the in-state representative can factually establish compliance with all of the above listed

PROPOSED

requirements, the out-of-state seller is exempt from business and occupation tax.

The exemption is available only where an out-of-state seller is present in this state and represented exclusively by a "direct seller's representative." If an out-of-state seller makes wholesale or retail sales of "consumer products" in Washington to or through a "direct seller's representative" and also has a branch office, local outlet, or other local place of business, or is represented by any other employee, agent, or other representative, no portion of the sales are exempt from business and occupation tax.

The business and occupation tax likewise applies to the gross income of a "direct seller's representative" who buys "consumer products" for resale and does in fact resell the products. The measure of the business and occupation tax is the gross proceeds of sales.

**Service.** The law provides no similar business and occupation tax exemption with regard to the compensation paid to the "direct seller's representative." Thus, the representative will remain subject to the business and occupation tax on all commissions or other compensation earned.

### Sales and Use Tax

An out-of-state vendor is required to pay or collect and remit the tax imposed by chapter 82.08 or 82.12 RCW if the vendor regularly solicits or makes retail sales of "consumer products" in this state through a "direct seller's representative," as defined above, even though such sales are exempt from business and occupation tax pursuant to RCW 82.04.423.

Every person who engages in this state in the business of acting as a "direct seller's representative" for unregistered principals, and who receives compensation by reason of sales of "consumer products" of such principals for use in this state, is required to collect the use tax from purchasers, and remit the same to the department of revenue, in the manner and to the extent set forth in WAC 458-20-221.) (1) **Introduction.** RCW 82.04.423 provides an exemption from the business and occupation (B&O) tax on wholesale and retail sales by a person who does not own or lease real property in the state, is not incorporated in the state, does not maintain inventory in this state, and makes sales in this state exclusively to or through a "direct seller's representative." This rule explains the statutory elements that must be satisfied in order to be eligible to take this exemption.

(2) **Background.** The statutory language describing the direct seller's representative is substantially the same language as contained in the federal Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982, PL 97-248. See 26 USC 3508. The federal law designates types of statutory nonemployees for social security tax purposes. The purpose of the direct seller provision in the federal tax law is to provide that a direct seller's representative is not an employee of the direct seller, thereby relieving the direct seller of a tax duty. Under the federal law, the direct seller is a business that sells its products using a representative who either purchases from the direct seller and resells the product or sells for or solicits sales on behalf of the direct seller. Retail sales are

limited to those occurring in the home or in a temporary retail establishment, such as a vendor booth at a fair.

The 1983 Washington state legislature used the same criteria to delineate, for state tax purposes, the necessary relationship between a direct seller and a direct seller's representative.

(3) **The direct seller's exemption.** The exemption provided by RCW 82.04.423 is limited to the B&O tax on wholesaling or retailing imposed in chapter 82.04 RCW (Business and occupation tax). A direct seller is subject to other Washington state tax obligations, including, but not limited to, the sales tax under chapter 82.08 RCW, the use tax under chapter 82.12 RCW, and the litter tax imposed by chapter 82.19 RCW.

(4) **Who may take the exemption.** The B&O tax exemption may be taken by a person (the direct seller) selling a consumer product using the services of a representative who sells or solicits the sale of the product as outlined in statute. There are ten elements in the statute that must be present in order for a person to qualify for the exemption for Washington sales. The person must satisfy each element to be eligible for the exemption. The taxpayer must retain sufficient records and documentation to substantiate that each of the ten required elements has been satisfied. RCW 82.32.070.

(a) The four statutory elements describing the direct seller. RCW 82.04.423 provides that a direct seller:

(i) Cannot own or lease real property within this state. For example, if the direct seller's representative is selling vitamins door to door for the direct seller, but the direct seller owns or leases a coffee roasting factory in the state, the direct seller is not eligible for this exemption; and

(ii) Cannot regularly maintain a stock of tangible personal property in this state for sale in the ordinary course of business. This provision does not, however, prohibit the direct seller from holding title to the consumer product in the state. For instance, the direct seller owns the consumer products sold by the direct seller's representative when the representative is making retail sales for the direct seller. However, the personal property must not be a stock of goods in the state that is for sale in the ordinary course of business. The phrase "sale in the ordinary course of business" means sales that are arm's length and that are routine and reasonably expected to occur from time to time; and

(iii) Is not a corporation incorporated under the laws of this state; and

(iv) Makes sales in this state exclusively to or through a direct seller's representative. This provision of the statute describes how sales by the direct seller may be made. To be eligible for the exemption, all sales by the direct seller in this state must be made to or through a direct seller's representative. The direct seller may not claim any B&O tax exemption under RCW 82.04.423 if it has made sales in this state using means other than a direct seller's representative. This requirement does not, however, limit the methods the direct seller's representative may use to sell these products. For example, the representative can use the mail or the internet, if all other conditions of the exemption are met. The direct seller's use of mail order or internet, separate from the representative's use, may or may not be found to be "sales in this



state" depending on the facts of the situation. If the direct seller's use of methods other than to or through a direct seller's representative constitutes sales in this state, the exemption is lost. Additionally, a direct seller does not become ineligible for the exemption due to action by the direct seller's representative that is in violation of the statute, such as selling a product to a permanent retail establishment, if the department finds by a review of the facts that the ineligible sales are irregular, prohibited by the direct seller, and rare.

If a seller uses a direct seller's representative to sell "consumer products" in Washington, and also has a branch office, local outlet, or other local place of business, or is represented by any other type of selling employee, selling agent, or selling representative, no portion of the sales are exempt from B&O tax under RCW 82.04.423. For example, a person who uses representatives to sell consumer products door to door and who also sells consumer products through retail outlets is not eligible for the exemption. The phrase "sales exclusively to . . . a direct seller's representative" describes wholesale sales made by the direct seller to a representative. The phrase "sales exclusively . . . through a direct seller's representative" describes retail sales made by the direct seller to the consumer. The B&O tax exemption provided by RCW 82.04.423 is limited to these types of wholesale and retail sales.

(b) The six statutory elements describing the direct seller's representative. RCW 82.04.423 provides the following elements that relate to the direct seller's representative:

(i) How the sale is made. A direct seller's representative is "a person who buys consumer products on a buy-sell basis or a deposit-commission basis for resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment, or who sells, or solicits the sale of, consumer products in the home or otherwise than in a permanent retail establishment." The direct seller sells the product using the services of a representative in one of two ways, which are described by two clauses in the statute. The first clause ("a person who buys . . . for resale" from the direct seller) describes a wholesale sale by the direct seller. The second clause (a person who "sells or solicits the sale" for the direct seller) describes a retail sale by the direct seller.

(A) A transaction is on a "buy-sell basis" if the direct seller's representative performing the selling or soliciting services is entitled to retain part or all of the difference between the price at which the direct seller's representative purchases the product and the price at which the direct seller's representative sells the product. The part retained is remuneration from the direct seller for the selling or soliciting services performed by the representative. A transaction is on a "deposit-commission basis" if the direct seller's representative performing the selling or soliciting services is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction. The part retained is remuneration from the direct seller for the selling or soliciting services performed by the representative.

(B) The location where the retail sale of the consumer product may take place is specifically delineated by the terms of the statute. The direct seller may take the exemption only if the retail sale of the consumer product takes place either in

the home or otherwise than in a permanent retail establishment. The resale of the products sold by the direct seller at wholesale is restricted by the statute through the following language: "For resale, by the buyer or any other person, in the home or otherwise than in a permanent retail establishment." This restrictive phrase requires the product be sold at retail either in the home or in a nonpermanent retail establishment. Regardless of to whom the representative sells, the retail sale of the product must take place either in the buyer's home or in a location that is not a permanent retail establishment. Examples of permanent retail establishments are grocery stores, hardware stores, newsstands, restaurants, department stores, and drug stores. Also considered as permanent retail establishments are amusement parks and sports arenas, as well as vendor areas and vendor carts in these facilities if the vendors are operating under an agreement to do business on a regular basis. Persons selling at temporary venues, such as a county fair or a trade show, are not considered to be selling at a permanent retail establishment.

(ii) What product the direct seller must be selling. The direct seller must be selling a consumer product, the sale of which meets the definition of "sale at retail," used for personal, family, household, or other nonbusiness purposes. "Consumer product" includes, but is not limited to, cosmetics, cleaners and soaps, nutritional supplements and vitamins, food products, clothing, and household goods, purchased for use or consumption. The term does not include commercial equipment, industrial use products, and the like, including component parts. However, if a consumer product also has a business use, it remains a "consumer product," notwithstanding that the same type of product might be distributed by other unrelated persons to be used for commercial, industrial, or manufacturing purposes. For example, desktop computers are used extensively in the home as well as in businesses, yet they are a consumer product when sold for nonbusiness purposes.

(iii) How the person is paid. The statute requires that "substantially all of the remuneration paid to such person, whether or not paid in cash, for the performance of services described in this subsection is directly related to sales or other output, including the performance of services, rather than the number of hours worked." The remuneration must be for the performance of sales and solicitation services and it must be based on measurable output. Remuneration based on hours does not qualify. A fixed salary or fixed compensation, without regard to the amount of services rendered, does not qualify.

Remuneration need not be in cash, and it may be the consumer product itself or other property, such as a car.

(iv) How the agreement is memorialized. The services by the person must be performed pursuant to a written contract between the representative and the direct seller. The requirement that the contract be in writing is a specific statutory condition of RCW 82.04.423. A series of writings used to establish the intent is insufficient to comply with this provision.

(v) What the agreement must contain. The sale and solicitation services must be the subject of the agreement, and the agreement must be specific as to the federal tax status of the representative.

(vi) The status of the representative. The agreement must state that the representative is not an employee of the direct seller for federal tax purposes. A person satisfying the requirements of the statute should also be a statutory nonemployee under federal law, since the requirements of RCW 82.04.423 and 26 U.S.C. 3508 are the same. The direct seller must maintain proof the representative is a statutory nonemployee.

(5) **Tax liability of the direct seller's representative.** The statute provides no tax exemption with regard to the "direct seller's representative." The direct seller's representative is subject to the service and other activities B&O tax on commission compensation earned for services described in RCW 82.04.423. Likewise, a direct seller's representative who buys consumer products for resale and does in fact resell the products is subject to either the wholesaling or retailing B&O tax upon the gross proceeds of these sales. Retail sales tax must be collected and remitted to the department on retail sales unless specifically exempt by law. For example, certain food products are statutorily exempt from retail sales tax (see WAC 458-20-244).

(a) Subject to the agreement of the representatives, the direct seller may elect to remit the B&O taxes of the representatives and collect and remit retail sales tax as agents of the representatives through an agreement with the department. The direct seller's representative should obtain a tax registration endorsement with the department unless otherwise exempt under RCW 82.32.045. (See also WAC 458-20-101 on tax registration.)

(b) Every person who engages in this state in the business of acting as a direct seller's representative for unregistered principals, and who receives compensation by reason of sales of consumer products of such principals for use in this state, is required to collect the use tax from purchasers, and remit the same to the department of revenue, in the manner and to the extent set forth in WAC 458-20-221. (Collection of use tax by retailers and selling agents.)

(6) **The retail sales and/or use tax reporting responsibilities of the direct seller.** A direct seller is required to collect and remit the tax imposed by chapter 82.08 RCW (Retail sales tax) or 82.12 RCW (Use tax) if the seller regularly solicits or makes retail sales of "consumer products" in this state through a "direct seller's representative" even though the sales are exempt from B&O tax pursuant to RCW 82.04.423.

## WSR 99-17-030

### PROPOSED RULES

#### DEPARTMENT OF LICENSING

[Filed August 11, 1999, 10:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-13-006.

Title of Rule: Chapter 308-56A WAC, Special procedures for obtaining a vehicle ownership document.

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, 46.12.040, 46.16.216.

Summary: WAC 308-56A-056 Names separated by words "and," "or," or the slash symbol "/" and 308-56A-150 Certificate of vehicle inspection.

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, 1125 Washington Street S.E., Olympia, WA 98507, on September 22, 1999, at 10:00.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by September 21, 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 September 21, 1999.

Date of Intended Adoption: October 16, 1999.

August 10, 1999

Deborah McCurley

Administrator

Title and Registration Services

#### NEW SECTION

**WAC 308-56A-056 Names separated by the words "and," "or," or the slash symbol "/" (1) Does the department use the words "and," "or," or the slash symbol "/" when recording multiple interests on a certificate of ownership?** The department no longer uses these designations when recording ownership interest. For those certificates of ownership which may have been issued using one of these designations, any registered owners so shown are considered to have equal registered owner interest in the vehicle and any lien holder so shown is considered to have equal security interest in the vehicle.

**(2) Will the department use the words "and," "or," or the slash symbol "/" if another jurisdiction has**

recorded multiple interests on the foreign certificate of ownership using one of these designations? The department does not use these designations when recording ownership interest.

**AMENDATORY SECTION** (Amending WSR 97-07-014, filed 3/11/97, effective 4/11/97)

**WAC 308-56A-150 Certificate of vehicle inspection.**

~~((1) An application for certificate of ownership must be accompanied by a certificate of inspection signed by an authorized inspector and must include the applicable statutory inspection fee whenever the applicant's vehicle is:~~

~~(a) From a state, jurisdiction or province other than Washington;~~

~~(b) Reported destroyed since the last certificate of ownership was issued;~~

~~(c) A homemade, assembled, or rebuilt vehicle not previously titled as such;~~

~~(d) One whose identification number has been removed, defaced, altered, destroyed, or has become illegible or is missing;~~

~~(e) One with a structural change in, or modification of, body or frame changing the class designation or body type currently shown on the record;~~

~~(f) A used vehicle and no Washington record can be found;~~

~~(g) A kit vehicle not previously titled as such; or~~

~~(h) A street rod not previously titled as such.~~

~~(2) No fee will be charged when a vehicle has been referred for inspection for any other reason; provided that the request for inspection shall have been made by a commissioned law enforcement officer, an employee of the department of licensing, or a vehicle license agent.~~

~~(3) Inspections will normally be accomplished by the Washington state patrol.~~

~~(4) The director may designate other competent inspecting agencies to perform inspections required under subsection (1)(a) of this section if the vehicle is located in a foreign state or province and the requirement for inspection by the Washington state patrol will cause undue hardship.~~

~~(5) When the inspection is done by the Washington state patrol, the certificate of inspection will be valid for the following periods of time after the inspection date:~~

~~(a) Vehicles from a state or province other than Washington: Sixty days;~~

~~(b) Vehicles reported destroyed: Ten days;~~

~~(c) Homemade, assembled, rebuilt vehicles, street rods, and kit vehicles: Ten days;~~

~~(d) Vehicles with identification number removed, defaced, altered, destroyed, illegible or missing: Ten days;~~

~~(e) Vehicles with structural change in, or modification of, body or frame changing the class designation or body type: Ten days;~~

~~(f) Used vehicles with no Washington record: Sixty days;~~

~~(g) Vehicles required to be inspected under subsection (1)(a) through (h) of this section and held for sale by a licensed dealer: One year; and~~

~~(h) Vehicles referred for inspection for any reason not listed above: Ten days.)) (1) **When is a certificate of vehicle inspection required?** A certificate of vehicle inspection, signed by an authorized inspector, must accompany the application for certificate of ownership and include the applicable statutory inspection fee whenever the applicant's vehicle is:~~

~~(a) From a state, jurisdiction or province other than Washington;~~

~~(b) Reported destroyed since the last certificate of ownership was issued;~~

~~(c) A homemade, assembled, or rebuilt vehicle not previously titled as such;~~

~~(d) One whose identification number has been removed, defaced, altered, destroyed, or has become illegible or is missing;~~

~~(e) One with a structural change in, or modification of, body or frame changing the class designation or body type currently shown on the record;~~

~~(f) A used vehicle and no Washington record can be found;~~

~~(g) A kit vehicle not previously titled as such;~~

~~(h) A street rod not previously titled as such;~~

~~(i) A glider kit not previously titled as such; or~~

~~(j) Questionable as to ownership.~~

~~(2) **Is a fee always charged for a certificate of vehicle inspection?** No, a fee is not always charged when a vehicle has been referred for inspection for any other reason other than subsection (1) of this section; provided that the request for inspection is made by a commissioned law enforcement officer, an employee of the department of licensing, a vehicle license agent or other competent inspecting agency designated by the director.~~

~~(3) **Who is authorized to perform a vehicle inspection?** Vehicle inspections may be performed by:~~

~~(a) The Washington state patrol;~~

~~(b) Other competent inspecting agencies designated by the director if the vehicle is located in a foreign state or province and the requirement for inspection by the Washington state patrol will cause undue hardship.~~

~~(4) **How long is a vehicle certificate of inspection valid?** The vehicle certificate of inspection is valid for the following periods of time after the inspection date:~~

~~(a) Thirty days for vehicles:~~

~~(i) Reported destroyed;~~

~~(ii) Homemade, assembled, rebuilt, street rods, kit vehicles and glider kits;~~

~~(iii) With identification number removed, defaced, altered, destroyed, illegible or missing;~~

~~(iv) With structural change in, or modification of, body or frame changing the class designation or body type;~~

~~(v) Referred for inspection for any reason not listed.~~

~~(b) Sixty days for vehicles:~~

~~(i) From a foreign jurisdiction;~~

~~(ii) With no Washington record or no manufacture statement of origin/manufacture certificate of origin.~~

~~(c) One year for vehicles required to be inspected under subsection (1)(a) through (i) of this section and held for sale by a licensed dealer.~~

PROPOSED

**WSR 99-17-039**  
**PROPOSED RULES**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**

[Filed August 12, 1999, 1:25 p.m.]

Original Notice.

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

Title of Rule: Title 136 WAC.

Purpose: Amend WAC 136-130-070.

Statutory Authority for Adoption: Chapter 36.79 RCW.

Summary: Revision to WAC 136-130-070, the rural arterial program.

Name of Agency Personnel Responsible for Drafting and Implementation: Karen Pendleton, Olympia, 753-5989; and Enforcement: Jay Weber, Olympia, 753-5989.

Name of Proponent: County Road Administration Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment will revise the rural arterial program.

Proposal Changes the Following Existing Rules: Amends Title 136 WAC.

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

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: 2404 Chandler Court S.W., #240, Olympia, WA 98504-0913, on October 14, 1999, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Karen Pendleton by September 30, 1999, TDD (800) 833-6384, or (360) 753-5989.

Submit Written Comments to: Karen Pendleton, fax (360) 586-0386, by September 30, 1999.

Date of Intended Adoption: October 14, 1999.

August 9, 1999

Jay P. Weber

Executive Director

**AMENDATORY SECTION** (Amending WSR 99-01-021, filed 12/7/98, effective 1/7/99)

**WAC 136-130-070 Project prioritization in southwest region (SWR).** Each county in the SWR may submit projects requesting RATA funds not to exceed thirty percent of the SWR biennial apportionment. No bridge replacement projects will be funded. Each project shall be rated in accordance with the SWR RAP rating procedures. SWR RAP rating points shall be assigned on the basis of fifty road condition points, consisting of twenty-five points for structural condition and twenty-five points for surface condition, ((thirty)) fifty points for geometrics, ten points for traffic volume and ten points for traffic accidents, except that portland cement concrete surfaces and asphalt surfaces with cement concrete bases shall have fifty points for road surface condition and no points for structural condition and except that gravel roads shall have thirty-five points maximum for surface condition, and fifteen points maximum for roadbed

width in geometrics and no other geometric points. Prioritization of SWR projects shall be on the basis of total SWR RAP rating points shown on the project worksheets and the prospectus form of the project application.

**WSR 99-17-044**  
**PROPOSED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Commission Docket No. A-990298—Filed August 13, 1999, 8:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-09-028.

Title of Rule: Chapter 480-140 WAC, Commission general—Budgets, requirements for reviewing budgets of regulated companies.

Purpose: To implement the requirements of Executive Order 97-02, requiring agencies to review significant rules for need; effectiveness and efficiency; clarity; intent and statutory authority; cost and fairness. The proposal would repeal the existing rules, reorganize and rewrite the substance of the text for compliance with Executive Order 97-02, and promulgate new sections incorporating the redrafted provisions. In addition, the proposal adds provisions to set existing policies in rules, updates definitions, and deletes obsolete provisions.

Statutory Authority for Adoption: RCW 80.01.040 General and 80.04.160 Utility.

Statute Being Implemented: RCW 80.04.300 through 80.04.330.

Summary: See Explanation of Rules below.

Name of Agency Personnel Responsible for Drafting: Fred Ottavelli, 1300 South Evergreen Park Drive S.W., Olympia, WA 98503, (360) 664-1297; Implementation and Enforcement: Carole J. Washburn, Secretary, 1300 South Evergreen Park Drive S.W., Olympia, WA 98503, (360) 664-1174.

Name of Proponent: Washington Utilities and Transportation Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rules address how the Washington Utilities and Transportation Commission reviews budgets of regulated companies. This review is in compliance with Executive Order 97-02 and reviews the chapter for clarify, intent and statutory authority, need, effectiveness and efficiency, coordination, cost and fairness. This proposal would redraft the rules to comply with the executive order, would incorporate and formalize policies, and would eliminate rules that are obsolete.

Proposal Changes the Following Existing Rules: The proposal would repeal existing rules and substitute reorganized and redrafted rules. The proposed substantive changes to rule text include the following: (1) Deleting and adding definitions as needed; (2) clarifying who must file, when to file, and what to file; and (3) deleting obsolete and redundant requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule implements state law, limits the companies that must file, and reduces the amount of information to be filed. The agency does not believe that any increase in cost will result from adopting these rules.

RCW 34.05.328 does not apply to this rule adoption. The commission is not an agency to which RCW 34.05.328 applies.

Hearing Location: Commission Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA 98504, on October 13, 1999, at 9:30 a.m.

Submit Written Comments to: Carole J. Washburn, Secretary, P.O. Box 47250, Olympia, WA 98504, or e-mail to <records@wutc.wa.gov>, or fax (360) 586-1150, by September 8, 1999. Please include Docket No. A-990298 in your communication.

Date of Intended Adoption: October 13, 1999.

August 12, 1999

Terrence Stapleton

for Carole J. Washburn

Secretary

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

**WAC 480-140-010 Definitions.** ~~((1) The term "public service company" shall mean every person, firm, corporation, or association, or their lessees, trustees, or receivers, now or hereafter engaged in business in this state as a public utility and subject to regulation as to rates and service by the Washington utilities and transportation commission.~~

~~(2) The term "commission" when used in these rules and regulations shall mean the Washington utilities and transportation commission or such body as may succeed to the powers and duties now exercised by it.~~

~~(3) The term "budget" when used in these rules and regulations shall mean a financial statement prepared by each public service company showing the estimated revenues, sources and amounts of money which each public service company shall, in its judgment, require during the ensuing year for maintenance, operations and construction classified by accounts as prescribed by the commission.)) Commission means Washington utilities and transportation commission.~~

Net utility plant in service means plant in service less accumulated depreciation and amortization.

Public service company means every gas company, electrical company, telecommunications company, and water company subject to regulation under the provisions of Title 80 RCW as to rates and service by the commission.

#### NEW SECTION

**WAC 480-140-015 Exemptions from rules.** (1) The commission may grant an exemption of any rule in this chapter, if consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought and giving a full explanation of the reason the exemption is requested.

(3) The commission will assign the request a docket number, if needed, and schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date the commission will consider the request.

(4) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-09 WAC.

AMENDATORY SECTION (Amending Order R-363, Docket No. U-911075, filed 12/31/91, effective 1/31/92)

**WAC 480-140-020 Who must file.** ~~((All public service companies shall file budgets with the commission except (1) gas, water, telecommunications, telegraph, and electrical companies whose annual gross operating revenues do not exceed one hundred fifty thousand dollars and (2) water companies who are required to file water system plans with the department of health in compliance with WAC 246-290-100. Water companies required to file such plans with the department of health shall concurrently file a copy of such plan with the commission.)) The following public service companies with annual gross operating revenues exceeding two hundred fifty thousand dollars must file budgets with the commission:~~

(1) Gas companies;

(2) Electrical companies;

(3) Telecommunications companies that serve more than two percent of the access lines in the state of Washington, except those companies classified as competitive by the commission; and

(4) Water companies that are not required to file water system plans with the department of health in compliance with WAC 246-290-100. A copy of the water system plan must be filed with the commission.

AMENDATORY SECTION (Amending Order R-5, filed 6/6/69, effective 10/9/69)

**WAC 480-140-030 When to file.** The budget for the ensuing fiscal year ~~((shall))~~ must be ~~((prepared and))~~ filed with the commission within ~~((40))~~ ten days of the date it is approved by the company, but in no event ~~((shall))~~ will it be filed later than ~~((the last day of the year preceding that for which the budget is applicable))~~ sixty days after the beginning of the fiscal year.

AMENDATORY SECTION (Amending Order R-363, Docket No. U-911075, filed 12/31/91, effective 1/31/92)

**WAC 480-140-040 ((Preparation.)) What to file.** ~~((Budgets shall be made in duplicate on forms furnished by the commission. The original and three copies shall be filed with the commission and one copy shall be kept by the company for its files. Each question must be answered fully and~~

PROPOSED

accurately. Where the word "none" truly and completely states the fact, it may be given as the answer to any particular inquiry or portion thereof. Do not leave blank lines. Items and schedules which do not apply to the reporting company's business and therefore cannot be filled in, shall be answered "not applicable." In no case shall any utility deviate from the requirements of these rules except upon a showing of good cause, and then only to the extent authorized by the commission in writing. For the purpose of the budget report an "individual major project," is defined according to the following schedule:

Company Construction Budget	Major Project
\$25,000 or less	\$2,000 or more
\$25,001 to \$50,000	\$2,500 or more
\$50,001 to \$100,000	\$10,000 or more
\$100,001 to \$500,000	\$15,000 or more
\$500,001 to \$1,000,000	\$50,000 or more
\$1,000,001 to \$5,000,000	\$100,000 or more
\$5,000,001 or more	\$500,000 or more

All other individual projects shall be listed by name, location, and estimated cost. For companies with utility operations in more than one state, the major project threshold shall be applied to all projects proposed to be located in the state of Washington and to all projects which will be partly or wholly allocated to Washington operations: *Provided*, That individual project description sheets shall be required only for those projects for which the assigned or allocated costs to Washington equal or exceed the threshold set forth in this rule.) Budgets must show construction expenditures and the operating income, including operation and maintenance expenditures during the ensuing year. All major construction projects must be identified in the budget. Major construction projects for water, gas, and electrical companies include all projects where the Washington-allocated share of the total project is greater than five-tenths of one percent of the company's latest year-end Washington-allocated net utility plant in service, but does not include any project of less than three million dollars on a total project basis. For telecommunications companies, major projects include all construction projects where the intrastate Washington-allocated share is greater than one million dollars.

**AMENDATORY SECTION** (Amending Order R-43, filed 4/5/73 and 4/18/73)

**WAC 480-140-080 Secrecy provision.** The commission may, in its discretion, to the extent permitted by (~~section 31, chapter 1, Laws of 1973~~) RCW 80.04.095 and chapter 42.17 RCW, upon the request of any public service company, withhold from publication, (~~during such time as the commission may deem advisable;~~) any portion of any (~~original or supplemental~~) budget (~~relating to proposed capital expenditures~~) designated as confidential pursuant to WAC 480-09-015.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 480-140-050 Approval.
- WAC 480-140-060 Supplemental change.
- WAC 480-140-070 Emergency expenditures.
- WAC 480-140-090 Conformity of accounts.
- WAC 480-140-100 Donations.
- WAC 480-140-110 Dues.
- WAC 480-140-120 Wage scales.
- WAC 480-140-130 Tax expenditures.
- WAC 480-140-140 Affiliated interests.
- WAC 480-140-150 Advertising.
- WAC 480-140-160 Salaries.
- WAC 480-140-170 Operations covered.

**WSR 99-17-052  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Division of Child Support)  
[Filed August 13, 1999, 11:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-16-090.

Title of Rule: WAC 388-14-490 All Washington employers must report new hires to the Washington state support registry.

Purpose: Removes prior exemptions from requirements to report new hires under RCW 26.23.040. Allows employer to comply with reporting requirements by filing a completed copy of the employee's W-4 form.

Statutory Authority for Adoption: RCW 26.23.040.

Statute Being Implemented: RCW 26.23.040.

Summary: Implements the new hire reporting requirements of RCW 26.23.040; allows Washington employers to comply by supplying a copy of the employee's W-4.

Reasons Supporting Proposal: Employer efficiency and ease of reporting.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Nancy Koptur, DCS Rules Coordinator, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Removes prior exceptions to RCW 26.23.040,

PROPOSED

requirements for employers to report new hires to the Washington state support registry. Provides that an employer complies with RCW 26.23.040 by filing a complete copy of the employee's W-4 form.

Proposal Changes the Following Existing Rules:  
Amends WAC 388-14-490.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 34.05.328 (5)(b)(iii) provides that there is no need for a small business economic impact statement when the rule adopts by reference without material change a Washington state statute. In addition, the cost of administering this rule for business will not be more than a minor cost.

RCW 34.05.328 does not apply to this rule adoption. Exempt per RCW 34.05.328 (5)(b)(iii); this is not a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on September 21, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by September 10, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@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) 664-6185, by September 21, 1999.

Date of Intended Adoption: September 22, 1999.

August 13, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending Order 3403, filed 6/9/92, effective 7/10/92)

**WAC 388-14-490 ((Employer reporting program—Exemptions)) All Washington employers must report new hires to the Washington state support registry. (1) ((In addition to the exemptions established under)) RCW 26.23.040((, the employers assigned the following standard industrial classification (SIC) codes are exempt from the requirements of the employer reporting program as authorized under chapter 26.23 RCW:**

- (a) ~~SIC code 7363, temporary services;~~
- (b) ~~SIC code 8011, offices and clinics of medical doctors;~~
- (c) ~~SIC code 8021, offices and clinics of dentists;~~
- (d) ~~SIC code 8031, offices of osteopath physicians;~~
- (e) ~~SIC code 8041, offices and clinics of chiropractors;~~
- (f) ~~SIC code 8042, offices and clinics of optometrists;~~
- (g) ~~SIC code 8043, offices and clinics of podiatrists;~~
- (h) ~~SIC code 8049, offices of health practitioners;~~
- (i) ~~SIC code 8071, medical laboratories;~~
- (j) ~~SIC code 8072, dental laboratories; and~~
- (k) ~~SIC code 8092, kidney dialysis centers)) requires all employers doing business in the state of Washington to comply with the employer reporting requirements regarding new hires.~~

(2) The minimum information that must be reported is the employee's name, date of birth, social security number and date of hire.

(3) An employer who submits a copy of the employee's completed W-4 form complies with the filing requirements of RCW 26.23.040(3).

(4) An employer may choose to voluntarily report the other statutory elements.

### WSR 99-17-063

#### PROPOSED RULES

#### STATE TOXICOLOGIST

[Filed August 13, 1999, 1:21 p.m.]

Supplemental Notice to WSR 99-10-019.

Expedited Adoption—Proposed rule-making notice was filed as WSR 99-10-019.

Title of Rule: Administration of breath alcohol program.

Purpose: To correct a drafting error in an amendment to this section effective April 1, 1999 (WSR 99-06-048). This would make permanent the emergency change adopted in WSR 99-10-018. The error has caused some confusion about the appropriate criteria for an acceptable test.

Statutory Authority for Adoption: RCW 46.61.506.

Statute Being Implemented: RCW 46.61.506.

Summary: The change makes clear that in order for breath alcohol tests conducted on or after April 1, 1999, to be admissible in judicial or administrative hearings on or after April 27, 1999, the external standard test results must be between 0.072 and 0.088. For tests conducted prior to April 1, 1999, the rules in effect at that time would apply.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Barry K. Logan Ph.D., 2203 Airport Way South, Seattle, WA 98134, (206) 464-5435.

Name of Proponent: Barry K. Logan Ph.D., State Toxicologist, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This adoption would make permanent a previous emergency provision (WSR 99-10-018) that was put in place to assist with the interpretation of breath alcohol test results. This provision would otherwise have expired August 24, 1999. The change makes clear that in order for tests conducted on or after April 1, 1999, to be admissible on or after April 27, 1999, the external standard test results must be between 0.072 and 0.088. For tests conducted prior to April 1, 1999, the rules in effect at that time would apply. The anticipated effect is that any breath alcohol test conducted on or after April 1, 1999, that meets all other required criteria, and in which the external standard test result is between 0.072 and 0.088, would be admissible in administrative or judicial proceedings conducted after April 27, 1999.

Proposal Changes the Following Existing Rules: This provision corrects a drafting error in an amendment to this section effective April 1, 1999 (WSR 99-06-048). This would make permanent the emergency change adopted in

PROPOSED

WSR 99-10-018. The error has caused some confusion about the appropriate criteria for an acceptable test.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rule applies only to law enforcement agencies and administration of legal breath alcohol test.

RCW 34.05.328 does not apply to this rule adoption. Agency compliance not required per subsection (5)(a)(i).

Hearing Location: Washington State Toxicology Lab, 2203 Airport Way South, Seattle, WA 98134, on September 29, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Beth Bizzell by September 22, 1999, (206) 464-5435.

Submit Written Comments to: Barry K. Logan Ph.D., fax (206) 389-2738, by September 28, 1999.

Date of Intended Adoption: October 6, 1999.

August 10, 1999

Barry K. Logan Ph.D.

State Toxicologist

**AMENDATORY SECTION** (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-060 Validity and certification of test results.** A test shall be a valid test and so certified, if the requirements of WAC 448-13-040, 448-13-050 and 448-13-055 are met, and in addition the following criteria for precision and accuracy, as determined solely from the breath test document, are met:

(1) The internal standard test results in the message "verified."

(2) In order to be valid, the two breath samples must agree to within plus or minus ten percent of their mean. This shall be determined as follows:

(a) The breath test results shall be reported, truncated to three decimal places.

(b) The mean of the two breath test results shall be calculated and rounded to four decimal places.

(c) The lower acceptable limit shall be determined by multiplying the above mean by 0.9, and truncating to three decimal places.

(d) The upper acceptable limit shall be determined by multiplying the mean by 1.1 and truncating to three decimal places.

(e) If the results fall within and inclusive of the upper and lower acceptable limits, the two breath samples are valid.

(3) The simulator external standard result must lie between .090 to .110 inclusive for tests conducted prior to April 1, 1999, and .072 to .088 inclusive for tests conducted on or after April 1, 1999. This provision is remedial in nature and applies to any judicial or administrative proceeding conducted after April 27, 1999.

(4) All four blank tests must give results of .000.

If these criteria are met, then these and no other factors are necessary to indicate the proper working order of the instrument, and so certify it, at the time of the breath test.

**WSR 99-17-070**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**

[Filed August 13, 1999, 3:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-10-057.

Title of Rule: Chapter 308-93 WAC, Vessel registration and certificates of title.

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 88.02.070 and 88.02.100.

Summary: Amending WAC 308-93-030 Vessels subject to excise tax, registration and titling, 308-93-140 Decals—Placement, size, and color and 308-93-145 Vessel registration numbers—Display, size, color; and repealing WAC 308-93-040 Vessels exempted from excise tax but required to be registered and titled, 308-93-135 Vessel number required, 308-93-155 Form of number, and 308-93-320 Registration certificate and decals follow vessel on transfer.

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 107, 1125 Washington Street S.E., Olympia, WA 98507, on September 29, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by September 28, 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 September 28, 1999.

Date of Intended Adoption: October 16, 1999.

August 13, 1999

Deborah McCurley, Administrator  
Title and Registration Services

PROPOSED



AMENDATORY SECTION (Amending Order TL-RG 8, filed 9/13/84)

**WAC 308-93-030 Vessels subject to excise tax, registration and titling.** ((The following vessels must be registered and titled and pay the excise tax if they are on or using the waters of this state:

All vessels sixteen feet or longer equipped with propulsory machinery or sails, unless specifically exempted)) **What vessels are subject to excise tax, registration and titling?** Unless specifically exempted under chapters 88.02 and 82.49 RCW, all vessels sixteen feet or longer equipped with propulsory machinery or sails, are subject to excise tax, registration and titling, including the following:

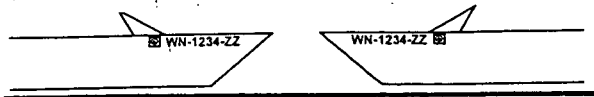
- (1) Amphibious vessels (vehicles);
- (2) Houseboats;
- (3) Inflatable vessels with motors;
- (4) Ski type vessels (jet ski, wet bike, etc.);
- (5) Racing vessels.

AMENDATORY SECTION (Amending WSR 90-08-018, filed 3/28/90, effective 4/28/90)

**WAC 308-93-140 Decals—Placement, size, and color.** ((Upon registration, the applicant will be issued a registration certificate and two decals. One decal must be affixed to each side on the forward half of the vessel, except when the registration number is placed as provided by WAC 308-93-145 (2) and (3). The registration decals must be placed in line with and within six inches of the aft of the registration number. The decals must meet the requirements of subsections (1) and (2) of this section. Only the current registration year decals may be displayed:

(1) Decals must be approximately three inches square.

(2) The years in which validation decals expire must be indicated by the colors blue, international orange, green, and red, in rotation beginning with blue for decals that expire with 1985 expirations.)) **(1) Where do I place the decals I receive when I register my vessel in Washington?** These decals shall be placed on the vessel for which they were assigned. Decals must be affixed on (see illustration):



(a) Both sides of the bow; and

(b) Within six inches aft of, and directly on line with, the vessel registration number as provided by WAC 308-93-145(4).

(c) For documented vessels, one decal must be affixed to each side of the forward half of the vessel for which it was assigned so it is easily visible for law enforcement.

**(2) What do the vessel decals look like that are issued by the department?** In accordance with 33 CFR, vessel decals are approximately three inches square. The years in which validation decals expire must be indicated by the col-

ors blue, international orange, green, and red, in rotation beginning with blue for decals that expired in 1985.

**(3) Which vessel decal shall be displayed?** To legally operate your vessel on Washington waters, you must display the decal that shows your vessel is registered for the current registration year.

AMENDATORY SECTION (Amending Order TL-RG-2, filed 6/21/84)

**WAC 308-93-145 Vessel registration numbers—Display, size, color.** ((1) Each registration number issued must:

(a) Be painted on or permanently attached to each side of the forward half of the vessel except as allowed by subsection (2) of this section or required by subsection (3) of this section;

(b) Be in plain vertical block characters of not less than three inches in height;

(c) Contrast with the color of the background and be distinctly visible and legible;

(d) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (example: DC-5678-EF or DC-5678-EF); and

(e) Read from left to right.

(2) When a vessel is used by a manufacturer or by a dealer for testing or demonstrating, the number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel.

(3) On vessels so configured that a number on the hull or superstructure would not be easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(4) Each number displayed on a tender exempted under RCW 88.02.030 must meet the requirements of subsection (1) of this section and have a space or hyphen that is equal to the width of a letter other than "I" or a number other than "1" between the suffix and the number.)) **(1) What vessels are required to display a vessel registration number?** All vessels that are required to be registered under chapter 88.02 RCW except vessels documented with the United States Coast Guard, are required to display the vessel registration numbers.

**(2) What are vessel registration numbers?** Vessel registration numbers are configured in accordance with 33 CFR 174.23 and:

(a) Uniquely identify the vessel, similar to license plate numbers for vehicles;

(b) Are assigned by the department when you apply for initial registration for your vessel;

(c) Are printed on your registration certificate and certificate of ownership;

(d) The department does not provide any physical material for you to apply to your vessel.

**(3) How do I display the assigned vessel registration number on my vessel?** The registration number assigned shall:

(a) Be painted on or permanently attached to each side of the forward half of the vessel except as allowed by subsection (6) of this section or required by subsection (7) of this section;

(b) Be in plain vertical block characters of not less than three inches in height;

(c) Contrast with the color of the background and be distinctly visible and legible;

(d) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (example: WN 5678 EF or WN-5678-EF); and

(e) Read from left to right.

**(4) Are vessel registration numbers transferable from vessel to vessel? Vessel registration numbers are not transferable between vessels. Once assigned, a vessel registration number cannot be reassigned to another vessel.**

**(5) Does a Washington licensed dealer need to display registration numbers and decals when demonstrating or testing a vessel held for sale? Washington licensed vessel dealers shall display dealer registration numbers and decals assigned and issued by the department. Dealer registration numbers and decals shall be displayed in the following manner:**

(a) The department assigned dealer vessel registration number must be painted on or attached to a backing plate;

(b) The department issued decal must be affixed within six inches aft of and directly on line with the dealer registration number as provided by WAC 308-93-145(4); and

(c) The backing plate shall be attached to the forward half of the vessel so that the number is visible from each side of the vessel.

**(6) How do I display my vessel registration number if my vessel's hull or superstructure is configured so that the vessel registration number would not be easily visible? In this case, the vessel registration number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.**

**(7) Is a tender as described in chapter 88.02 RCW required to display a vessel registration number? Vessels used as a tender, while exempt from registration under RCW 88.02.030, must display the numbers of the parent vessel with an additional numeric digit following the last alpha character of the vessel registration number. (Example 1) WN 5678 EF 1 or WN-5678-EF-1. The second tender vessel registration number will be the next consecutive number. (Example 2) WN 5678 EF 2 or WN-5678-EF-2.**

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 308-93-040      Vessels exempted from excise tax but required to be registered and titled.
- WAC 308-93-135      Vessel number required.

WAC 308-93-155

Form of number.

WAC 308-93-320

Registration certificate and decals follow vessel on transfer.

**WSR 99-17-078  
PROPOSED RULES  
DEPARTMENT OF AGRICULTURE**

[Filed August 16, 1999, 10:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-13-187.

Title of Rule: Chapter 16-449 WAC, Washington controlled atmosphere storage requirements for winter pears.

Purpose: According to the petition submitted to the department, the proposed rule will provide the consumer a better quality winter pear. In addition, growers should recognize a higher packout due to the lack of scuffing, belt burn, scald and shrivel because packers/shippers will be able to pack their winter pears earlier in the season. The earlier the packers/shippers can apply ethoxygin and TBZ, the better the storage conditions are for the long pull. The delay in packing (90 days) contributes to scald, decay, scuffing and shrivel, which equates to lower packouts to the grower, more condition problems for the packers/receivers and less returns for the growers.

Statutory Authority for Adoption: Chapter 15.17 RCW.

Statute Being Implemented: RCW 15.17.30 [15.17-030].

Summary: Agency response to industry requests concerning lowering the requirements from ninety to sixty days for qualifying winter pears as controlled atmosphere storage. This will provide the consumer with a higher quality winter pear because the packer/shipper will be able to pack and market winter pears from controlled atmosphere thirty days earlier. Growers will realize higher packouts without added increases in quality defects.

Reasons Supporting Proposal: Request from the Upper Wenatchee River Pears Association, and supported by the Washington State Horticulture Association.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jim Quigley, Olympia, Washington, (360) 902-1833.

Name of Proponent: Upper Wenatchee River Pears Association and the Washington State Horticulture Association, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amendments to the existing rule, chapter 16-449 WAC, Washington controlled atmosphere storage requirements for winter pears. This change will allow for the packing and shipping of controlled atmosphere (CA) winter pears thirty days earlier. Proponents have indicated that the change from ninety to sixty days will allow growers to realize higher packouts due to earlier packing times, which will assist in

PROPOSED

reducing scuffing, belt burn, scald and shrivel. This will allow the consumer to receive a higher quality winter pear.

Proposal Changes the Following Existing Rules: The proposal will now qualify winter pears as meeting controlled atmosphere (CA) storage requirements after the completion of sixty days instead of the previous requirement of ninety days.

No small business economic impact statement has been prepared under chapter 19.85 RCW. On June 9, 1999, the Upper Wenatchee River Pear Association petitioned the Washington State Department of Agriculture (WSDA) to amend the current rules, thereby reducing the amount of days (from ninety to sixty) for qualifying winter pears as meeting the controlled atmosphere storage requirements. The Washington State Horticulture Association also supported the request. The intent of the proposal is to allow winter pears to qualify thirty days earlier as meeting the controlled atmosphere storage requirement. The shorter storage period will allow for the earlier packing/shipping and marketing of winter pears. Currently, there is no mandatory requirement for winter pears to be stored in controlled atmosphere storage. Winter pear growers, packers and shippers have the option to either market their winter pears directly from the orchard, regular type storage or from controlled atmosphere storage. Because the proposed rule is at the request of industry and because the proposed rule allows for more marketing options and is not a mandatory storage requirement, there is no small business impact statement.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: On October 4, 1999, 10:00 a.m., at the State Department of Agriculture Building, 21 North 1st Avenue, Yakima, WA 98902; and on October 5, 1999, 10:00 a.m., at the Washington Apple Commission Office, 2900 Euclid Avenue, Wenatchee, WA.

Assistance for Persons with Disabilities: Contact Cathy Jensen by October 1, 1999, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Jim Quigley, F&V Program Manager, WSDA Commodity Inspection Division, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2985, by October 5, 1999.

Date of Intended Adoption: October 8, 1999.

August 13, 1999

William E. Brookreson  
Deputy Director

**AMENDATORY SECTION** (Amending Order 1543, filed 11/8/77)

**WAC 16-449-010 Requirements.** Winter pears to be classified as controlled atmosphere storage pears, which meet the following requirements, other than those specifically set forth in chapter 15.30 RCW.

(1) Oxygen content of each room shall not exceed 5 percent oxygen within 20 days after sealing of room.

(2) Winter pears shall be retained in a controlled atmosphere storage, under required degrees of temperature and percentage of air components, for a period of not less than 45

days for the Bosc variety, and not less than ((90)) 60 days for all other varieties of winter pears, to qualify as having been stored in controlled atmosphere storage.

(3) No person in this state shall place or stamp the letters "CA" or a similar designation in conjunction with a number or numbers upon any container or sub-container of any fruits or vegetables, unless the director has inspected such fruits or vegetables and issued a state lot number for such fruits or vegetables in conjunction with a certificate stating their quality and condition, that they were stored in a warehouse licensed under the provisions of this chapter and that they meet all other requirements of this chapter or rules adopted hereunder: *Provided*, That if such fruits or vegetables are not allowed to enter the channels of commerce within two weeks of such inspection or a subsequent similar inspection by the director the letters "CA" and the state lot number shall be eradicated by the licensee.

(4) Preconditioned winter pears: In order to bear the "CA" stamp, all winter pears must be certified as meeting controlled atmosphere storage requirements prior to the preconditioning.

#### WSR 99-17-083

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF REVENUE

(By the Code Reviser's Office)

[Filed August 17, 1999, 8:06 a.m.]

WAC 458-20-238, proposed by the Department of Revenue in WSR 99-04-020 appearing in issue 99-04 of the State Register, which was distributed on February 17, 1999, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

#### WSR 99-17-084

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

(By the Code Reviser's Office)

[Filed August 17, 1999, 8:07 a.m.]

Chapter 365-18 WAC, proposed by the Department of Community, Trade and Economic Development in WSR 99-04-072, appearing in issue 99-04 of the State Register, which was distributed on February 17, 1999, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 99-17-085**  
**WITHDRAWAL OF PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

(By the Code Reviser's Office)

[Filed August 17, 1999, 8:07 a.m.]

WAC 180-18-055 and 180-51-107, proposed by the State Board of Education in WSR 99-04-082 appearing in issue 99-04 of the State Register, which was distributed on February 17, 1999, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 99-17-086**  
**PROPOSED RULES**  
**OLYMPIC AIR POLLUTION**  
**CONTROL AUTHORITY**

[Filed August 17, 1999, 9:28 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Amend Olympic Air Pollution Control Authority (OAPCA) Regulation 1 Article 5 Registration and Article 7 Notice of Construction.

Purpose: Revise exemption lists for Registration and Notice of Construction programs. Simplify Notice of Intent to Operate to one section in Article 7.

Statutory Authority for Adoption: Chapter 70.94 RCW.  
 Statute Being Implemented: RCW 70.94.141.

Summary: This proposal will revise the list of sources that are exempt from the registration and notice of construction programs. This proposal also combines the notice of intent to operate into one new section (7.02).

Reasons Supporting Proposal: To address discrepancies between registration and notice of construction, incorporate current OAPCA policies, and simplify the regulation.

Name of Agency Personnel Responsible for Drafting: Jennifer DeMay, 909 Sleater Kinney Road S.E., #1, 438-8768; Implementation and Enforcement: Charles Peace, 909 Sleater Kinney Road S.E., #1, 438-8768.

Name of Proponent: Olympic Air Pollution Control Authority (OAPCA), governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal will revise the list of sources that are exempt from the registration and notice of construction programs. This proposal is anticipated to have little or no effect on sources since most changes are part of current OAPCA policy.

Proposal Changes the Following Existing Rules: Revisions were made to the list of sources exempt from registration to address discrepancies and incorporate current OAPCA policies. The list of sources that require notice of construc-

tion was removed and a reference to the exemption list in Article 5 Registration was included.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the Regulatory Fairness Act (chapter 19.85 RCW) because air pollution control authorities are not deemed state agencies (RCW 70.94.141).

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: Olympic Air Pollution Control Authority, 909 Sleater Kinney Road S.E., #1, Lacey, WA 98503, on October 13, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Craig Weckesser by October 6, 1999, (360) 438-8768.

Submit Written Comments to: Charles Peace, fax (360) 491-6308, by October 13, 1999.

Date of Intended Adoption: October 13, 1999.

August 16, 1999

Charles Peace

Executive Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-18 issue of the Register.

**WSR 99-17-088**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed August 17, 1999, 9:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 98-13-053.

Title of Rule: Chapter 458-29A WAC, Leasehold excise tax, WAC 458-29A-100 Overview and definitions, 458-29A-200 Taxable rent and contract rent, 458-29A-400 Exemptions, 458-29A-500 Liability, and 458-29A-600 Collection and administration.

Purpose: Explains administration of the leasehold excise tax.

Statutory Authority for Adoption: RCW 82.29A.140.

Statute Being Implemented: Chapter 82.29A RCW.

Summary: This rule chapter explains administration of the leasehold excise tax imposed on the use and possession of public property by private persons. It provides pertinent definitions, and explains the exemptions and credits available under the program. The chapter also provides direction on how taxable rent is to be computed and under what circumstances and by which methods taxable rent will be established by the department. It provides direction for distinguishing "contract rent" from other kinds of payments between the lessee and the lessor. The rules also address the issues of liability for collection and remittance of the tax.

Reasons Supporting Proposal: The proposed rules will enhance the consistent application and administration of the leasehold excise tax program.

Name of Agency Personnel Responsible for Drafting: Margaret J. Partlow, 711 Capitol Way South, #303, Olympia,

WA, (360) 753-6769; 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 proposed chapter is intended to implement the leasehold excise tax chapter. It will provide guidance regarding the specific requirements of the leasehold chapter. The rules provide explicit and descriptive information regarding the application and administration of the tax.

Proposal does not change existing rules. There are no existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because the rule and the proposed amendments do not impose any requirements or burdens upon small businesses that are not already specifically required by statute.

RCW 34.05.328 does not apply to this rule adoption. This is an interpretive rule that sets forth the Department of Revenue's interpretation of chapter 82.29A RCW, which it administers.

Hearing Location: General Administration Building, Conference Room #201, 11th and Columbia, Olympia, Washington, on September 21, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Ginny Dale no later than ten days before the hearing date, TDD 1-800-451-7985, or (360) 586-0721.

Submit Written Comments to: Margaret J. Partlow, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail margaretp@dor.wa.gov, by September 22, 1999.

Date of Intended Adoption: September 24, 1999.

August 17, 1999

Russell W. Brubaker

Assistant Director

Legislation and Policy

## NEW SECTION

**WAC 458-29A-100 Leasehold excise tax—Overview and definitions.** (1) **Introduction.** Chapter 82.29A RCW establishes an excise tax on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest. The intent of the law is to ensure that lessees of property owned by public entities bear their fair share of the cost of governmental services when the property is rented to someone who would be subject to property taxes if the lessee were the owner of the property. The tax is an excise tax triggered by the private use and possession of the public property. RCW 82.29A.030.

(2) **Definitions.** For the purposes of chapter 458-29A WAC, the following definitions apply unless the context requires otherwise.

(a) "Department" means the department of revenue.

(b) "Concession" means the right to operate a business in an area of public property.

(c) "Contract rent" means that portion of the payment made by a lessee (including a sublessee) to a public lessor (or to a third party for the benefit of that lessor) for a leasehold interest in land and improvements or tangible personal property.

(d) "Franchise" means a right granted by a public entity to a person to do certain things that the person could not otherwise do. A franchise is distinguishable from a leasehold interest even when its exercise and value is inherently dependent upon the use and possession of publicly owned property.

(e) "Leasehold interest" means an interest granting the right to possession and use of publicly owned real or personal property as a result of any form of agreement, written or oral, without regard to whether the agreement is labeled a lease, license, or permit.

(i) Regardless of what term is used to label an agreement providing for the use and possession of public property by a private party, it is necessary to look to the actual substantive arrangement between the parties in order to determine whether a leasehold interest has been created.

(ii) Both possession and use are required to create a leasehold interest, and the lessee must have some identifiable dominion and control over a defined area to satisfy the possession element. The defined area does not have to be specified in the agreement but can be determined by the practice of the parties. This requirement distinguishes a taxable leasehold interest from a mere franchise, license, or permit.

For example, Sam sells hot dogs from his own trailer at varying sites within a county fairgrounds during events. Sam is not assigned a particular place to set up his trailer nor does he store his trailer on the fairground between events. Sam's right to sell and his use of the property is considered a franchise and not a leasehold interest. The necessary element of possession, involving a greater degree of dominion and control over a more defined area, is lacking.

(iii) The use or occupancy of public property where the purpose of such use or occupancy is to render services to the public owner does not create a leasehold interest. The lessee's possession and use of the property is in furtherance of the public owner's purposes, and it is the public owner who benefits from the governmental services rendered in respect to the property.

For example, Contractor A operates a snack bar at a publicly owned facility where food and beverages are sold to members of the public, and derives a profit from the proceeds of the snack bar sales. Contractor B operates a cafeteria where food is provided at no charge to persons with appropriate I.D., and is reimbursed on a cost-plus basis. Contractor A is engaged in a business enterprise the same as any other restaurateur. Contractor A is using the public property for a private purpose, and has a taxable leasehold interest on the premises. Contractor B is merely providing a service to government personnel that the government agency would otherwise provide. Contractor B is using public property for a public purpose, and does not have a taxable leasehold interest.

(iv) "Leasehold interest" includes the use and occupancy by a private party of property that is owned in fee simple,

PROPOSED

held in trust, or controlled by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if:

(A) The property is within a special review district established by ordinance after January 1, 1976; or

(B) The property is listed on, or is within a district listed on, any federal or state register of historical sites in existence after January 1, 1987.

(v) "Leasehold interest" does not include:

(A) Road or utility easements;

(B) Rights of access, occupancy, or use granted solely for the purpose of removing materials or products purchased from a public owner or the lessee of a public owner, including permits to graze livestock, cut brush, pick wild mushrooms, or mine ore; and

(C) Any right to use personal property (excluding land or buildings) owned by the United States (as a trustee or otherwise), or by a foreign government, when the right to use the property is granted by a contract solely to manufacture or produce articles for sale to the United States or the foreign government.

(f) "Lessee" means a private person or entity with a leasehold interest in public property who would be subject to property tax if the person or entity owned the property in fee.

(g) "Lessor" or "public lessor" means an entity exempted from property tax obligations pursuant to Article 7, section 1 of the state Constitution that grants a leasehold interest in public property to a private person or entity.

(h) "License" means permission to enter on land for some purpose, without conferring any rights to the land upon the person granted the permission. For example, a permit to enter federal lands to launch rafts into the water for the purpose of conducting whitewater river rafting tours is a license, not a leasehold interest.

(i) "Management agreement" means a written agency agreement between a public property owner and a private person or entity for the use and possession of public property under the following circumstances:

(i) The public property owner retains all liability for payment of business operating costs and business related damages (other than costs and damages attributable to the activities of the private party);

(ii) The public property owner has title and ownership of all receipts from sales of services or products relating to the management agreement (whether such amounts are collected by the private party on behalf of the public owner or whether the public owner permits the private party to retain a portion of the receipts as payment for services rendered by the private party), and the full discretion of whether to eliminate, reduce or expand the business activity conducted on the property; and

(iii) The public property owner has full control of the prices to be charged for the goods or services provided in the course of use of the property.

If each of these criteria is met, the arrangement between the parties is considered a "true" management agreement which does not, by itself, create a taxable leasehold interest in the property.

(j) "Permit" means a written document creating a license to enter land for a specific purpose.

(k) "Product lease" means a lease of public property which will be used to produce agricultural or marine products (aquaculture) wherein the lease or agreement requires that:

(i) The leasehold payment be made by delivering a stated percentage of the agricultural or marine products to the credit of the lessor; or

(ii) The lessor be paid a stated percentage of the proceeds from the sale of the agricultural or marine products.

(l) "Public property" means all property owned by an entity exempted from property tax obligations pursuant to Article 7, section 1 of the state Constitution (and, in some instances, property held in trust by the United States).

(m) "Renegotiated" means a change in the leasehold agreement, other than one specifically required by the terms of the agreement itself, which alters:

(i) The agreed time of possession and use of the property;

(ii) The restrictions on the manner in which the property may be used; or

(iii) The rate of cash rental or other consideration paid by the lessee to or for the benefit of the lessor.

The term also includes the continued possession of the property by the lessee beyond the original date when, according to the terms of the agreement, the lessee had the right to vacate the premises without incurring further liability to the lessor.

(n) "Taxable rent" means the amount of rent upon which the measure of leasehold excise tax is based. It is either the contract rent or an amount established by the department in accordance with the procedures set forth in RCW 82.29A.020(2). (See also WAC 458-29A-200.)

(o) "Utility easement" means the right to use publicly owned land for the purpose of providing access or installation of publicly regulated utilities.

#### NEW SECTION

**WAC 458-29A-200 Leasehold excise tax—Taxable rent and contract rent. (1) Introduction.** Ordinarily, the amount of taxable rent is the amount of contract rent paid by a lessor for a taxable leasehold interest. The law does authorize the department to establish a taxable rent different from the contract rent in certain cases. This rule explains the exclusions of certain moneys and other property received by or on behalf of a lessor from the measure of contract rent. It also explains the conditions under which the department is authorized to establish a taxable rent different from the contract rent.

(2) **Contract rent exclusions.** Even when a leasehold interest is present, not all payments made to a lessor constitute taxable contract rent. For example, payments made to or on behalf of the lessor for actual utility charges, janitorial services, security services, and for special assessments such as storm water impact fees attributable to the lessee's space or prorated among multiple lessees, are not included in the measure of contract rent, if the actual charges are separately stated and billed to the lessee(s). "Utility charges" means charges for services provided by a public service business subject to the public utility tax under chapter 82.16 RCW,

and, for the purpose of this section only, also includes water, sewer, and garbage services and cable television services. However, if such deductions are determined by the department to reduce the amount of contract rent to a level below market value, the department may establish a taxable rent in accordance with section (6) below.

For example, Dan leases retail space in a building owned by the Port of Whistler. He pays \$800 per month for the space, which includes building security services. Additionally, he is assessed monthly for his pro rata share of actual janitorial and utility services provided by the Port. The Port determines Dan's share of these charges in the following manner: The average annual amount actually paid by the Port for utilities in the prior year is divided by 12. Dan's space within the building is approximately ten percent of the total space in the building, so the averaged monthly charge is multiplied by .10 (Dan's pro rata share based upon the amount of space he leases), and that amount is added to Dan's monthly statement as a line item charge for utilities, separate from the lease payment. The charges for janitorial services are treated in the same manner. In this case, Dan's payment for utilities and janitorial services are not included in the measure of contract rent. His payments for security services are included in the measure of contract rent, and subject to the leasehold excise tax, because they are not calculated and charged separately from the lease payments.

Contract rent also does not include:

(a) Expenditures made by the lessee for which the lease agreement requires the lessor to reimburse the lessee;

(b) Expenditures made by the lessee for improvements and protection if the lease or agreement requires the improved property to be open to the general public (e.g., a public boat launch) and prohibits the lessee from enjoying any profit directly from the lease;

(c) Expenditures made by the lessee to replace or repair the facilities due to fire or other catastrophic event including, but not necessarily limited to, payments:

(i) For insurance to reimburse losses;

(ii) To a public or private entity to protect the property from damage or loss; or

(iii) To a public or private entity for alterations or additions made necessary by an action of government which occurred after the date the lease agreement was executed.

(d) Improvements added to public property if the improvements are taxed as any person's personal property.

(3) **Combined payments.** When the payment for a leasehold interest is made in combination with payment for concession, franchise or other rights granted by the public lessor, only that part of the payment which represents consideration for the leasehold interest is considered part of the contract rent. For example, if the payment made by the lessee to the public lessor exceeds the fair market rental value for comparable property with similar use, the excess is generally attributable to payment for a concession or other right.

(4) **Lease payments based on a percentage of sales.** The measure of contract rent subject to the leasehold excise tax may be based upon a lease which provides that the rent shall be a percentage of business proceeds. The manner in which the rent is calculated does not, in itself, determine the

character of the underlying right or interest for which the payment is made.

(5) **Expenditures for improvements.** Expenditures by the lessee for nonexcludable improvements (see WAC 458-29A-200(2)) with a useful life of more than one year will be treated as prepaid contract rent if the expenditures were intended by the parties to be included as part of the contract rent. Such intention may be demonstrated by a contract provision granting ownership or possession and use to the public owner of the underlying property and/or by the conduct of the parties. These expenditures should be prorated over the useful life of the improvement, or over the remaining term of the lease or agreement if the useful life of the improvement exceeds that term.

(6) **Department's authority to establish taxable rent.** RCW 82.29A.020(2) authorizes the department to establish a "taxable rent" that is different from contract rent in some situations.

(a) If the department determines that a lessee has a leasehold interest in publicly owned property and that such leasehold interest has not been established through competitive bidding, or negotiated in accordance with statutory requirements regarding the rent payable, or negotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor, the department may establish a taxable rent computation for use in determining the tax payable under authority granted under chapter 82.29A RCW. The department shall base its computation on the following criteria:

(i) Consideration shall be given to rent being paid to other lessors by lessees of similar property for similar purposes over similar periods of time; or

(ii) Consideration shall be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person or the general public.

(b) If the department establishes taxable rent pursuant to subsection (a) and RCW 82.29A.020 (2)(b), and the contract rent was established in accordance with the procedures set forth in that section, but the lease is ten or more years old and has not been renegotiated, the taxable rent for leasehold excise tax purposes shall be prospective only. However, if upon examination the department determines that the contract rent was not set in accordance with the statutory provisions of RCW 82.29A.020(2) and the rent is below fair market rate, the department may, in its discretion (and in most instances, will) apply the taxable rental rate retroactively for purposes of determining the leasehold excise tax, subject to the provisions of RCW 82.32.050(3).

(c) The department will not establish taxable rent if one of the following four situations apply:

(i) The leasehold interest has been established or renegotiated through competitive bidding;

(ii) The rent was set or renegotiated according to statutory requirements;

(iii) Public records demonstrate that the rent was the maximum attainable; or

(iv) A lease properly established or renegotiated in compliance with (6)(a)(i), (ii), or (iii) has been in effect for ten years or less without renegotiation.

(d) Where the contract rent has been established in accordance with one of the first three criteria set forth above, and the lease agreement has not been in effect for ten years or more, or has been properly renegotiated within the past ten years, the taxable rent is deemed to be the stated contract rent.

(e) If land on the Hanford reservation is subleased to a private or public entity by the state of Washington, "taxable rent" means only the annual cash rental payment made by the sublessee to the state and specifically referred to as rent in the sublease agreement.

#### NEW SECTION

**WAC 458-29A-400 Leasehold excise tax—Exemptions.** (1) **Introduction.** RCW 82.29A.130 establishes a number of exemptions from the leasehold excise tax. To be exempt from the leasehold excise tax, the property subject to the leasehold interest must be used exclusively for the purposes for which the exemption is granted.

(2) **Operating properties of a public utility.** All leasehold interests that are part of the operating properties of a public utility are exempt from leasehold excise tax if the leasehold interest is assessed and taxed as part of the operating property of a public utility under chapter 84.12 RCW. For example, tracks leased to a railroad company at the Port of Seaside are exempt from leasehold excise tax because the railroad is a public utility assessed and taxed under chapter 84.12 RCW and the tracks are part of the railroad's operating properties.

(3) **Nonprofit schools and colleges.** All leasehold interests in facilities owned or used by a public school, college, or university to provide housing to students are exempt from leasehold excise tax if the student housing is exempt from property tax under RCW 84.36.010 and 84.36.050. For example, the leasehold interest associated with a building used as a dormitory for Public University students is exempt from the leasehold excise tax.

(4) **Subsidized housing.** All leasehold interests of subsidized housing are exempt from leasehold excise tax if the United States, the state of Washington, or any political subdivision owns the property in fee simple and residents of the housing are subject to specific income qualification requirements. For example, a leasehold interest in an apartment house that is subsidized by the Federal Department of Housing and Urban Development is exempt from leasehold excise tax if the property is owned by the state of Washington and residents are subject to income qualification requirements.

(5) **Nonprofit fair associations.** All leasehold interests used for fair purposes of a nonprofit fair association are exempt from leasehold tax if the fair association sponsors or conducts a fair or fairs supported by revenues collected under RCW 67.16.100 and allocated by the director of the department of agriculture. The property must be owned in fee simple by the United States, the state of Washington, or any public political subdivision. However, if a nonprofit association subleases exempt property to a third party, the sublease is a

taxable leasehold interest. For example, a leasehold interest held by the Local Nonprofit Fair Association is considered exempt from leasehold excise tax. However, if buildings on the fairgrounds are rented to private parties for storage during the winter, these rentals may be subject to the leasehold excise tax.

(6) **Public employee housing.** All leasehold interests in public property used as a residence by an employee of the public owner are exempt from leasehold tax if the employee is required to live on the public property as a condition of his or her employment. For example, a cabin used as a residence by a forest ranger in the Northwest National Forest is exempt from leasehold excise tax if the cabin is owned by the United States, the ranger is employed by the U.S. Forest Service (an agency of the United States government), and the ranger is required to live in the Northwest National Forest as a condition of his/her employment.

(7) **Interests held by enrolled Indians.** Leasehold interests held by enrolled Indians are exempt from leasehold excise tax if the lands are owned or held by any Indian or Indian tribe, and the fee ownership of the land is vested in or held in trust by the United States, unless the leasehold interests are subleased to a lessee which would not qualify under chapter 82.29A RCW, RCW 84.36.451 and 84.40.175 and the tax on the lessee is not preempted due to the balancing test (see WAC 458-20-192).

Any leasehold interest held by an enrolled Indian or a tribe, where the leasehold is located within the boundaries of an Indian reservation, on trust land, on Indian country, or is associated with the treaty fishery or some other treaty right, is not subject to leasehold excise tax. For example, if an enrolled member of the Puyallup tribe leases port land at which the member keeps his or her boat, and the boat is used in a treaty fishery, the leasehold interest is exempt from the leasehold tax. For more information on excise tax issues related to enrolled Indians, see WAC 458-20-192 (Indians—Indian reservations).

(8) **Leases on Indian lands to non-Indians.** Leasehold interests in any real property of any Indian or Indian tribe, band, or community held in trust by the United States or subject to a restriction against alienation imposed by the United States that are held by a non-Indian not otherwise exempt from tax due to the application of the balancing test under WAC 458-20-192 are exempt from leasehold excise tax if the amount of contract rent paid is greater than or equal to ninety percent of fair market rental value. In determining whether the contract rent of such lands meets the required level of ninety percent of market value, the department will use the same criteria used to establish taxable rent under RCW 82.29A.020 (2)(b) (WAC 458-29A-200).

For example, Harry leases land held in trust by the United States for the Yakima tribe for the sum of \$900 per month. The fair market value for similar lands used for similar purposes is \$975 per month. The lease is exempt from the leasehold tax because Harry pays at least ninety percent of the fair market value for the qualified lands. For more information on the preemption analysis and other tax issues, see WAC 458-20-192.



(9) **Annual taxable rent is less than two hundred fifty dollars.** Leasehold interests for which the taxable rent is less than \$250 per year are exempt from leasehold tax. For the purposes of this exemption, if the same lessee has a leasehold interest in two or more contiguous parcels of property owned by the same public lessor, the taxable rent for each contiguous parcel will be combined and the combined taxable rent will determine whether the threshold established by this exemption has been met. To be considered contiguous, the parcels must be in closer proximity than merely within the boundaries of one piece of property. When determining the annual leasehold rent, the department will rely upon the actual substantive agreement between the parties. Rent payable pursuant to successive leases between the same parties for the same property within a twelve-month period will be combined to determine annual rent; however, a single lease for a period of less than one year will not be projected on an annual basis.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) The yacht club rents property from the Port of Bay City for its clubhouse and moorage. It also rents a parking stall for its commodore. The parking stall is separated from the clubhouse only by a common walkway. The parking stall lease is a part of the clubhouse lease because it is contiguous to the clubhouse, separated only by a necessary walkway.

(b) Ace Flying Club rents hangars, tie downs, and ramps from the Port of Desert City. It has separate leases for several parcels. The hangars are separated from the tie down space by a row of other hangars, each of which is leased to a different party. Common ramps and roadways also separate the club's hangars from its tie-downs. The hangars, because they are adjacent to one another, create a single leasehold interest. The tie downs are a separate taxable leasehold interest because they are not contiguous with the hangars used by Ace Flying Club.

(c) Grace leases a lot from the City of Flora, from which she sells crafts at different times throughout the year. She pays \$50 per month for the lot, and has a separate lease for each season during which she sells. She has one lease from May through September, and a separate lease for the time between Thanksgiving and Christmas, which might run thirty to forty days, depending on the year. The leases will be combined for the purposes of determining the leasehold excise tax. They relate to the same piece of property, for the same activity by the same lessee, and occur within the same year.

(d) Elizabeth owns a Christmas tree farm. Every year she rents a small lot from the Port of Capital City, adjacent to its airport, to sell Christmas trees. She pays \$125 to the port to rent the lot for 6 weeks. It is the only time during the year that she rents the lot. Her lease is exempt from the leasehold excise tax, because it does not exceed \$250 per year in taxable rent.

(10) **Leases for a continuous period of less than thirty days.** Leasehold interests that provide use and possession of public property for a continuous period of less than thirty days are exempt from leasehold tax. In determining the dura-

tion of the lease, the department will rely upon the actual agreement and/or practice between the parties. If a single lessee is given successive leases or lease renewals of the same property, the arrangement is considered a continuous use and possession of the property by the same lessee. A leasehold interest does not give use and possession for a period of less than thirty days based solely on the fact that the public lessor has reserved the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(11) **Month-to-month leases in residential units to be demolished or removed.** Leasehold interests in properties rented for residential purposes on a month-to-month basis pending destruction or removal for construction of a public highway or building are exempt from the leasehold excise tax. For example, if the state or other public entity has acquired private properties for highway expansion, airport expansion, or capitol campus expansion, and rents those residential units pending their removal for construction, these leases do not create taxable leasehold interests. This exemption does not require evidence of imminent removal of the residential units; the term "pending" merely means "while awaiting." The exemption is based upon the purpose for which the public entity holds the units. For example, State University has obtained capital development funding for the construction of new campus buildings, and has purchased a block of residential property adjacent to campus for the sole purpose of expansion. Jim leases these houses from State University pursuant to a month-to-month rental agreement and rents them to students. Construction of the new buildings is not scheduled to begin for two years. Jim is not subject to the leasehold excise tax, because State University is holding the residential properties for the sole purpose of expanding its facilities, and Jim is leasing them pending their certain, if not imminent, destruction.

(12) **Public works contracts.** Leasehold interests in publicly owned real or personal property held by a contractor solely for the purpose of a public improvements contract or work to be executed under the public works statutes of Washington state or the United States are exempt from leasehold tax. To receive this exemption, the contracting parties must be the public owner of the property and the contractor that performs the work under the public works statutes.

For example, during construction of a second deck on the Nisqually Bridge pursuant to a public works contract between the state of Washington and Tinker Construction, any leasehold interest in real or personal property created for Tinker solely for the purpose of performing the work necessary under the terms of the contract is exempt from leasehold tax.

(13) **Correctional industries in state adult correctional facilities.** Leasehold interests for the use and possession of state adult correctional facilities for the operation of correctional industries under RCW 72.09.100 are exempt from leasehold tax. For example, a profit or nonprofit organization operating and managing a business within a state prison under an agreement between it and the department of corrections is exempt from leasehold tax for its use and possession of state property.

(14) **Camp facilities for disabled persons.** Leasehold interests in a camp facility are exempt from leasehold tax if the property is used to provide organized and supervised recreational activities for disabled persons of all ages, and for public recreational purposes, by a nonprofit organization, association, or corporation which would be exempt from property tax under RCW 84.36.030(1) if it owned the property. For example, a county park with camping facilities leased to a nonprofit charitable organization is exempt from leasehold tax if the nonprofit allows the property to be used by the general public for recreational activities throughout the year, and to be used as a camp for disabled persons for two weeks during the summer.

(15) **Public or entertainment areas of certain baseball stadiums.** Leasehold interests in public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy, located in a county with a population of over one million people, with a seating capacity of over forty thousand, and constructed on or after January 1, 1995, are exempt from leasehold excise tax.

"Public or entertainment areas" for the purposes of this exemption include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public areas, public rest rooms, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or that are used for the production of the entertainment event or other public usage, and any other personal property used for such purposes. "Public or entertainment areas" does not include locker rooms or private offices used exclusively by the lessee.

(16) **Public or entertainment areas of certain football stadiums and exhibition centers.** Leasehold interests in the public or entertainment areas of an open-air stadium suitable for national football league football and for Olympic and world cup soccer, with adjacent exhibition facilities, parking facilities, and other ancillary facilities constructed on or after January 1, 1998, are exempt from leasehold excise tax. For the purpose of this exemption, the term "public and entertainment areas" has the same meaning as set forth in subsection (15) above.

(17) **Public facilities districts.** All leasehold interests in public facilities districts, as provided in chapter 36.100 RCW or Title 35 RCW are exempt from leasehold excise tax.

## NEW SECTION

### **WAC 458-29A-500 Leasehold excise tax—Liability.**

(1) **Introduction.** The event triggering a leasehold excise tax liability is the use by a private person or entity of publicly owned, tax-exempt property.

Where a lessee is also a tax-exempt government entity, the tax will apply against a private sublessee, even though no contractual arrangement exists between the sublessee and the public lessor.

### (2) **Lessor's responsibility to collect and remit tax.**

The public lessor is responsible for collecting and remitting the leasehold excise tax from its private lessees. If the public lessor collects the leasehold excise tax but fails to remit it to the department, the public lessor is liable for the tax.

(a) Where the public lessor has attempted to collect the tax, but has received neither contract rent nor leasehold excise tax from the lessee, the department will proceed directly against the lessee for payment of the tax and the lessee shall be solely liable for the tax, provided, the lessor notifies the department in writing when the lessor is unable to collect rent and/or taxes, and the amount of the leasehold excise tax arrearage is \$1000 or greater. If the lessor fails to notify the department, the department may, in its discretion, look to the public lessor for payment of the tax.

(b) If, upon examining all of the facts and circumstances, the department determines that the public lessor in good faith believed the lessee to be exempt from all or part of the leasehold excise tax, the department will look to the public lessor for assistance in collection of the tax due, but will not hold the public lessor personally liable for payment of such tax. To satisfy the requirement of "good faith" the public lessor must have acted with reasonable diligence and prudence to determine whether the leasehold excise tax was due from the lessee.

(3) The following examples, while not exhaustive, illustrate some of the circumstances in which a public lessor may or may not be held liable for the leasehold excise tax. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Doug has been newly hired in the accounting department at City Port and is assigned the responsibility for its rental accounts. He is unaware of the leasehold excise tax laws and fails to bill new tenants for the leasehold excise tax. In this situation, City Port does not avoid possible liability for the tax. Accounting errors and lack of knowledge regarding City Port's responsibility to collect and remit the leasehold excise tax do not qualify as reasonable diligence and prudence.

(b) Sybil rents an apartment in a building owned by State University but she is not a student of the University and the building is not used for student housing. She pays \$900 per month in rent. The terms of the lease require her to give at least thirty days' notice of intent to vacate. In the month of March, she fails to pay her rent, and State University serves her with a notice to pay or quit the premises. On April 1, she sends a check to State University for \$2016 (two months' rent, plus leasehold excise tax). The bank does not honor the check, and Sybil abandons the premises in mid-April without notice. When State University discovers that she has left, it timely notifies the department of the unpaid rent and leasehold excise tax. State University has acted with reasonable prudence and diligence and will not be held liable for the unpaid leasehold excise tax. In serving Sybil with a notice to pay or quit when she first defaulted, State University attempted to mitigate the amount of rent and taxes which were unpaid, and it complied with all other requirements regarding its duty to report the arrearages to the department.

(c) Sonata City owns several houses on property which may be used in the future for office buildings, a fire station, or perhaps a park, depending on its future needs. The city leases the houses on six-month terms, mainly to students who attend the local college. Over the past four years that the city has rented the properties, it has not collected leasehold excise tax from the tenants, because city officials believed the property to be exempt since they planned someday to use the property for a public purpose. Following an audit, it is determined that there is no definite plan for destruction of the houses nor any funds allocated for construction of public buildings on the site. Further, the houses were not rented on a month-to-month basis. Therefore, leasehold excise tax is due. Most of the prior tenants have left the area, and there is no convenient way for the city to collect the unpaid leasehold tax. Sonata City is liable for the tax because although its managers did not believe the tax was due, the lack of knowledge regarding the city's responsibility to collect and remit the leasehold excise tax does not qualify as reasonable diligence and prudence. Sonata City had a duty to make a good faith effort to determine its obligations under the applicable leasehold excise tax statutes and rules.

#### NEW SECTION

**WAC 458-29A-600 Leasehold excise tax—Collection and administration.** (1) **Introduction.** Leasehold excise tax is levied by the state under RCW 82.29A.030 and by counties and/or cities under RCW 82.29A.040. The administrative procedures contained in chapters 82.02 and 82.32 RCW apply to the administration and collection of the leasehold excise tax.

(2) **Tax imposed.** The rates at which leasehold excise tax is levied are contained in RCW 82.29A.030 and 82.29A.040. The department publishes documents containing the applicable rates, credits, and formulas. These documents are updated as necessary and are available upon request.

(3) **Separate listing requirement.** The amount of leasehold excise tax due must be listed separately from the amount of contract rent on any statement or other document provided to the lessee by the lessor. If the leasehold excise tax is not stated separately from the contract rent, it is assumed that the leasehold excise tax is not included in the amount stated as due.

(4) **Credits allowed against leasehold excise tax.** Because the leasehold excise tax is intended only to equalize treatment between private property owners and lessees of public entities, the amount of leasehold excise tax should not exceed the amount of property tax that would be due if the leased property was privately owned. Therefore, in calculating the taxes imposed under RCW 82.29A.030 and 82.29A.040, RCW 82.29A.120 authorizes the following credits:

(a) **Leasehold interests created after April 1, 1986, or situations where the department has established taxable rent.** Where a leasehold interest other than a product lease was created after April 1, 1986, or where the department has established taxable rent in accordance with RCW 82.29A.020 (2)(b), and the amount of leasehold excise tax due is greater

than the amount of property tax that would be due if the property was privately owned by the lessee, without regard to any property tax exemption under RCW 84.36.381, a credit equal to the difference between the leasehold excise tax and the comparable property tax will be allowed.

If the property is subleased, the credit must be passed on to the sublessee. Lessees and sublessees of residential property who would qualify for either a partial or total exemption from property tax under RCW 84.36.381 if they owned the property in fee are eligible for a corresponding reduction in the amount of leasehold excise tax due. The leasehold excise tax for the qualifying lessees or sublessees is reduced by the same percentage as the percentage reduction in property tax that would result from the property tax exemption under RCW 84.36.381.

(b) **Product leases.** A credit of thirty-three percent of the total leasehold excise tax due is allowed for product leases.

(5) **When payment is due.** The leasehold excise taxes are due on the same date that the contract rent is due to the lessor. If the contract rent is paid to someone other than the lessor, the leasehold tax is due at the time the payment is made to that other person or entity. Any prepaid contract rent will be deemed to have been paid in the year due and not in the year in which it was actually paid if the prepayment is for more than one year's rent. If contract rent is prepaid, the leasehold tax payment may be prorated over the number of years for which the contract rent is prepaid. The prorated portion of the tax will be due in two installments per year, with no less than one-half due on or before May 31 and the second half due no later than November 30 of each year.

(6) **Collection and distribution of tax by the department.** The department collects and distributes the leasehold excise taxes authorized by RCW 82.29A.030 and 82.29A.040.

(a) **Taxes levied by the state.** All money received by the department from leasehold taxes levied under RCW 82.29A.030 is transmitted to the state treasurer for deposit in the general fund.

(b) **Taxes levied by counties and cities.** Prior to the effective date of the ordinance imposing a leasehold excise tax, the county or city imposing the tax must contract with the department for administration and collection services. The department may deduct a percentage, not to exceed two percent, of the taxes collected as reimbursement for administration and collection expenses. The department deposits the balance of the taxes collected in the local leasehold excise tax account with the state treasury, and the state treasurer bimonthly distributes those moneys to the counties and cities.

County treasurers must proportionately distribute the moneys they receive in the same manner they distribute moneys collected from property tax levies in accordance with RCW 84.56.230, provided that no moneys are to be distributed to the state or any city, and the pro rata calculation for proportionate distribution cannot include any levy rates by the state or any city.

(7) **Leasehold interests in federally owned land or federal trust land.** Lessees with a leasehold interest in federally owned lands or federal trust lands must report and

PROPOSED

remit the leasehold tax due directly to the department on an annual reporting basis.

**WSR 99-17-091**  
**PROPOSED RULES**  
**EMPLOYMENT SECURITY DEPARTMENT**

[Filed August 17, 1999, 11:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-11-089.

Title of Rule: Employer records—Farm operator.

Purpose: To repeal WAC 192-12-050 and make it conform to Governor Locke's Executive Order 97-02. This WAC is being renumbered WAC 192-310-050. We have removed from WAC 192-12-050 subsection (1)(j) relating to farm operators and created a separate rule.

Other Identifying Information: We have removed the section on farm operators and created a separate rule numbered WAC 192-310-055.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 50.12.070.

Summary: Chapter 50.12 RCW allows the commissioner to adopt or amend rules in accordance with Title 34 RCW. RCW 50.12.070 Employing unit records and reports—Unified business identifier account number records, specifies that "each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe." This rule clearly defines the intent of the agency as to what those records should be.

Reasons Supporting Proposal: The proposed regulations will clarify records requirements for unemployment insurance tax purposes for employers and/or their representatives as related for farm operators.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA 98507, (360) 902-9642, Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, WA 98507, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is intended to clearly set forth the requirements for the business and financial records that are to be retained by employers for purposes of unemployment insurance taxes and detailing the information to be maintained in those records for farm operators. As we have pointed out earlier this rule is being amended in conformity with Governor Locke's Executive Order 97-02. The rule is being renumbered. There are no significant effects upon employers. We are requiring two additional pieces of information, currently required by the Department of Labor and Industries, the name of the crew leader, or contractors and evidence of the farm contractor's license (chapter 19.30 RCW).

Proposal Changes the Following Existing Rules: This rule as noted above is being amended and renumbered. The

rule is being changed to become more similar to the Department of Labor and Industries where we ask for the name of the crew leader and evidence of the farm contractor's license number in accordance with chapter 19.30 RCW. We are trying to be more specific about the business and financial records that this department requires a business to maintain for purposes of applying the Employment Security Act relative to unemployment insurance taxes.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will not impact businesses in particular industries as defined in chapter 19.85 RCW, but will impact all industries equally. In addition chapter 19.85 RCW (RCW 19.85.025(3)) applies per paragraph below.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The proposed rules will meet the intent of RCW 34.05.310. Public access will be through hearings and solicitation of comments from any interested parties.

Hearing Location: Employment Security Department, Staff Development Room 2 (Annex), 106 Maple Park Drive, Olympia, WA 98504, on September 22, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact George Mante by September 14, 1999, (360) 902-9642.

Submit Written Comments to: George Mante, Tax Reform Coordinator, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556, by September 14, 1999.

Date of Intended Adoption: September 22, 1999.

July 23, 1999

Carver Gayton

Commissioner

### Chapter 192-310 WAC

#### NEW SECTION

**WAC 192-310-055 Employer records—Farm operator or farm labor contractor.** The commissioner requires every employer to keep true and accurate employment records under Chapter 50.12 RCW.

(1) Farm operators, or farm labor contractors must comply with the rules set forth in WAC 192-310-050 employer records.

(2) Farm operators contracting with a crew leader or a farm labor contractor, must make, keep, and preserve, original records containing the following information:

- (a) the inclusive dates of the contract;
- (b) the types of services performed;
- (c) the number of persons performing such services;
- (d) the name of the contractor or crew leader; and
- (e) evidence of the Farm Labor Contractor's License as required under Chapter 19.30 RCW.

## WSR 99-17-092

## PROPOSED RULES

## EMPLOYMENT SECURITY DEPARTMENT

[Filed August 17, 1999, 11:32 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 99-11-088.

Title of Rule: Employer records.

Purpose: To repeal WAC 192-12-050 and make it conform to Governor Locke's Executive Order 97-02. This WAC is being renumbered WAC 192-310-050. We have removed from WAC 192-12-050, subsection (1)(j) relating to farm operators and created a separate rule. We are structuring our rule to come into close conformity with the Department of Labor and Industries rule WAC 296-17-35201 which was adopted in 1995.

Other Identifying Information: We have removed the section on farm operators and created a separate rule numbered WAC 192-310-055.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 50.12.070.

Summary: Chapter 50.12 RCW allows the commissioner to adopt or amend rules in accordance with Title 34 RCW. RCW 50.12.070 Employing unit records and reports—Unified business identifier account number records, specifies that "each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe." This rule clearly defines the intent of the agency as to what those records should be.

Reasons Supporting Proposal: The proposed regulations will clarify records requirements for unemployment insurance tax purposes for employers and/or their representatives as related to any business.

Name of Agency Personnel Responsible for Drafting: George Mante, 212 Maple Park, Olympia, WA 98507, (360) 902-9642, Implementation and Enforcement: Dale Ziegler, 212 Maple Park, Olympia, WA 98507, (360) 902-9303.

Name of Proponent: Employment Security Department, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule is intended to clearly set forth the requirements for the business and financial records that are to be retained by employers for purposes of unemployment insurance taxes. As we have pointed out earlier this rule is being amended in conformity with Governor Locke's Executive Order 97-02. The rule is being renumbered. We are requiring essentially the same information as that required by the Department of Labor and Industries relating to those business and financial records that may be examined for purposes of payroll taxes.

Proposal does not change existing rules. This rule as noted above is being amended and renumbered. The rule is being changed to become more similar to the Department of Labor and Industries. We are trying to be more specific about the business and financial records that this department requires a business to maintain for purposes of applying the

Employment Security Act relative to unemployment insurance taxes.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will not impact businesses in particular industries as defined in chapter 19.85 RCW, but will impact all industries equally. In addition chapter 19.85 RCW (RCW 19.85.025(3)) applies per paragraph below.

Section 201, chapter 403, Laws of 1995, applies to this rule adoption. The proposed rule will meet the intent of RCW 34.05.310. Public access will be through hearings and solicitation from any interested parties.

Hearing Location: Employment Security Department, Staff Development Room 2 (Annex), 106 Maple Park Drive, Olympia, WA 98504, on September 22, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact George Mante by September 14, 1999, (360) 902-9642.

Submit Written Comments to: George Mante, Tax Reform Coordinator, UI Tax Administration, P.O. Box 9046, Olympia, WA 98507-9046, fax (360) 902-9556, by September 14, 1999.

Date of Intended Adoption: September 22, 1999.

July 23, 1999

Carver Gayton

Commissioner

## Chapter 192-310 WAC

NEW SECTION

**WAC 192-310-050 Employer records.** The commissioner requires every employer to keep true and accurate business, financial, and employment records which are deemed necessary for the effective administration of Chapter 50.12 RCW.

Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for four calendar years following the calendar year in which employment occurred:

- a. The name of each worker;
- b. The Social Security number of each worker;
- c. The beginning date of employment for each worker and, if applicable, the separation date of employment of each worker;
- d. The basis upon which wages and/or remuneration are paid to each worker;
- e. The location where such services were performed;
- f. A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each day;
- g. The workers' total gross pay period earnings;
- h. The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld to equate to net pay; and
- i. The cause for any discharge where a worker was separated from the job due to discharge; or the cause of any quit where a worker quit the job if the cause for the quit is known.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 192-12-050 Employer records.

**WSR 99-17-098**  
**PROPOSED RULES**  
**LIQUOR CONTROL BOARD**

[Filed August 17, 1999, 12:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-12-126.

Title of Rule: WAC 314-08-080 Notice of hearing in contested cases.

Purpose: The purpose of WAC 314-08-080 is to inform parties how they will be notified of a hearing regarding a contested case (such as a pending liquor license suspension).

Statutory Authority for Adoption: RCW 66.08.030, 34.05.434.

Statute Being Implemented: RCW 66.24.010(3).

Summary: The Administrative Procedure Act, specifically RCW 34.05.434, states that an agency must give written notice to all parties of a hearing, at least seven days in advance. Currently, WAC 314-08-080 states the Liquor Control Board will notify all parties at least twenty days before the hearing. The board would like to consider revising WAC 314-08-080, in order to have the option of notifying parties involved in contested cases not less than seven days in advance. The board intends to give parties as much as possible above the seven days required by law. The board would like to retain the option of notifying at least seven days in advance in certain cases that warrant prompt action, such as cases of emergency suspensions.

Name of Agency Personnel Responsible for Drafting: Teresa Berntsen, P.O. Box 43075, Olympia, WA 98504-3075, (360) 664-1648; Implementation and Enforcement: Gary Gilbert, P.O. Box 43075, Olympia, WA 98504-3075, (360) 664-1726.

Name of Proponent: Washington State Liquor Control Board, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 314-08-080 currently state the Liquor Control Board will notify all parties at least twenty days before the hearing. The board would like to consider revising WAC 314-08-080, in order to have the option of notifying parties involved in contested cases not less than seven days in advance, as required by RCW 34.05.434 (the Administrative Procedure Act).

The board intends to give parties as much notice as possible above the seven days required by law. The board would like to retain the option of notifying at least seven days in advance in certain cases that warrant prompt action, such as cases of emergency suspensions.

Proposal Changes the Following Existing Rules: The proposed language changes WAC 314-08-080. Currently, WAC 314-08-080 states the Liquor Control Board will notify all parties at least twenty days before the hearing. The board would like to consider revising WAC 314-08-080, in order to have the option of notifying parties involved in contested cases not less than seven days in advance.

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

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Liquor Control Board is not a listed agency in section 201.

Hearing Location: Liquor Control Board, Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98506, on September 22, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Teresa Berntsen by September 21, 1999, TDD (360) 586-4727, or (360) 664-1648.

Submit Written Comments to: Teresa Berntsen, Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, e-mail teb@liq.wa.gov, fax (360) 704-4920, by September 29, 1999.

Date of Intended Adoption: October 6, 1999.

August 10, 1999

Eugene Prince

Chair

AMENDATORY SECTION (Amending Order 245, Resolution No. 254, filed 4/5/88)

**WAC 314-08-080 Notice (~~and opportunity for~~) of hearing in contested cases.** In any contested case, the board will serve all parties (~~shall be served~~) with a written notice of hearing at least (~~twenty~~) seven days before (~~the date set for~~) the hearing date, as required by RCW 34.05.434. The notice (~~shall~~) will state the time, place, and (~~issues involved, as required by RCW 34.04.090(1) and WAC 314-04-010~~) reason for the hearing, and other information required by RCW 34.05.434(2).

**WSR 99-17-101**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed August 17, 1999, 4:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-06-049.

Title of Rule: Rules for the provision of special education to special education students.

Purpose: Local school districts and other public agencies provide services to eligible special education students through compliance with special education regulations. The current regulations do not contain the required elements for service to special education students under the 1997 amendments to the Individuals with Disabilities Education Act.

PROPOSED

Amendments to existing regulations are necessary to implement the 1997 amendments to IDEA.

Other Identifying Information: Federal regulations (34 C.F.R. Part B) implementing IDEA 97 were published in March 1999. They require the state to adopt rules and procedures in conformance with IDEA in order to be eligible for federal funding.

Statutory Authority for Adoption: RCW 28A.155.090 (7), 28A.300.070.

WAC #	State Statute(s)	Federal Regulation(s)
392-172-010	28A.155 28A.300.070	
392-172-020	28A.155 28A.300.070	34 C.F.R. 300.1-300.2 and 34 C.F.R. 300.600
392-172-030	28A.155 28A.300.070	34 C.F.R. 300.121-122
392-172-035	28A.155 28A.300.070	34 C.F.R. 300.7, 300.13, 300.20, 300.22 and 300.517
392-172-040	28A.155 28A.300.070	34 C.F.R. 300.500 and 300.533
392-172-045	28A.155 28A.300.070	34 C.F.R. 300.7 and 34 C.F.R. 300.26
392-172-055	28A.155 28A.300.070	34 C.F.R. 300.7 and 34 C.F.R. 300.24
392-172-065	28A.155 28A.300.070	34 C.F.R. 300.28
392-172-070	28A.155 28A.300.070	34 C.F.R. 300.5
392-172-073	28A.155 28A.300.070	34 C.F.R. 300.6
392-172-075	28A.155 28A.300.070	34 C.F.R. 300.308
392-172-100	28A.155 28A.300.070	34 C.F.R. 300.125, 300.220 and 300.451
392-172-102	28A.155 28A.300.070	34 C.F.R. 300.125
392-172-104	28A.155 28A.300.070	34 C.F.R. 300.126 and 300.343
392-172-105	28A.155 28A.300.070	34 C.F.R. 300.501 and 300.345
392-172-106	28A.155 28A.300.070	34 C.F.R. 300.532
392-172-107	28A.155 28A.300.070	34 C.F.R. 300.533
392-172-108	28A.155 28A.300.070	34 C.F.R. 300.530-533 and 300.540
392-172-109	28A.155 28A.300.070	34 C.F.R. 300.530, 300.533-300.535, 300.541-300.543
392-172-111	28A.155 28A.300.070	34 C.F.R. 300.534
392-172-112	28A.155 28A.300.070	34 C.F.R. 300.24
392-172-114	28A.155 28A.300.070	34 C.F.R. 300.7 and 300.313
392-172-116	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-118	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-120	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-122	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-124	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-126	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-128	28A.155 28A.300.070	34 C.F.R. 300.541 and 300.542
392-172-132	28A.155 28A.300.070	34 C.F.R. 300.530
392-172-134	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-136	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-138	28A.155 28A.300.070	34 C.F.R. 300.7 and 300.303

392-172-140	28A.155 28A.300.070	34 C.F.R. 300.7 and 300.303
392-172-142	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-144	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-146	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-148	28A.155 28A.300.070	34 C.F.R. 300.7
392-172-150	28A.155 28A.300.070	34 C.F.R. 300.500 and 300.502
392-172-153	28A.155 28A.300.070	34 C.F.R. 300.344
392-172-156	28A.155 28A.300.070	34 C.F.R. 300.343
392-172-15700	28A.155 28A.300.070	34 C.F.R. 300.345 and 300.346
392-172-15705	28A.155 28A.300.070	34 C.F.R. 300.501
392-172-158	28A.155 28A.300.070	34 C.F.R. 300.342
392-172-160	28A.155 28A.300.070	34 C.F.R. 300.347, 300.348 and 300.350
392-172-161	28A.155 28A.300.070	34 C.F.R. 300.346
392-172-162	28A.155 28A.300.070	34 C.F.R. 300.307
392-172-163	28A.155 28A.300.070	34 C.F.R. 300.309
392-172-164	28A.155 28A.300.070	34 C.F.R. 300.345
392-172-166	28A.155 28A.300.070	34 C.F.R. 300.344
392-172-170	28A.155 28A.300.070	34 C.F.R. 300.505
392-172-172	28A.155 28A.300.070	34 C.F.R. 300.550 and 553 and 300.305-306
392-172-174	28A.155 28A.300.070	34 C.F.R. 300.551
392-172-176	28A.155 28A.300.070	34 C.F.R. 300.132
392-172-180	28A.155 28A.300.070	34 C.F.R. 300.552
392-172-182	28A.155 28A.300.070	34 C.F.R. 300.536
392-172-184	28A.155 28A.300.070	34 C.F.R. 300.503
392-172-185	28A.155 28A.300.070	34 C.F.R. 300.505
392-172-186	28A.155 28A.300.070	34 C.F.R. 300.533-534
392-172-188	28A.155 28A.300.070	34 C.F.R. 300.533
392-172-190	28A.155 28A.300.070	34 C.F.R. 300.503 and 300.533
392-172-200	28A.155 28A.300.070	34 C.F.R. 300.136 and 300.380-382
392-172-202	28A.155 28A.300.070	34 C.F.R. 300.136 and 300.380-382
392-172-219	28A.155 28A.300.070	34 C.F.R. 300.400
392-172-220	28A.155 28A.300.070	34 C.F.R. 300.401
392-172-222	28A.155 28A.300.070	34 C.F.R. 300.401
392-172-224	28A.155 28A.300.070	34 C.F.R. 300.349 and 300.401
392-172-226	28A.155 28A.300.070	34 C.F.R. 300.301-302, 300.401 and 300.600
392-172-230	28A.155 28A.300.070	34 C.F.R. 300.403
392-172-231	28A.155 28A.300.070	34 C.F.R. 300.403
392-172-232	28A.155 28A.300.070	34 C.F.R. 300.450
392-172-23300	28A.155 28A.300.070	34 C.F.R. 300.453
392-172-23305	28A.155 28A.300.070	34 C.F.R. 300.453
392-172-23600	28A.155 28A.300.070	34 C.F.R. 300.454
392-172-23605	28A.155 28A.300.070	34 C.F.R. 300.455
392-172-23610	28A.155 28A.300.070	34 C.F.R. 300.456
392-172-239	28A.155 28A.300.070	34 C.F.R. 300.457
392-172-240	28A.155 28A.300.070	34 C.F.R. 300.460 and 300.461
392-172-242	28A.155 28A.300.070	34 C.F.R. 300.462
392-172-246	28A.155 28A.300.070	34 C.F.R. 300.459

PROPOSED

PROPOSED

392-172-300	28A.155 28A.300.070	34 C.F.R. 300.500
392-172-302	28A.155 28A.300.070	34 C.F.R. 300.503
392-172-304	28A.155 28A.300.070	34 C.F.R. 300.500 and 300.505
392-172-306	28A.155 28A.300.070	34 C.F.R. 300.503
392-172-307	28A.155 28A.300.070	34 C.F.R. 300.504
392-172-308	28A.155 28A.300.070	34 C.F.R. 300.20 and 300.515
392-172-309	28A.155 28A.300.070	34 C.F.R. 300.517
392-172-310	28A.155 28A.300.070	34 C.F.R. 300.506
392-172-312	28A.155 28A.300.070	34 C.F.R. 300.506
392-172-313	28A.155 28A.300.070	34 C.F.R. 300.506
392-172-314	28A.155 28A.300.070	34 C.F.R. 300.506
392-172-316	28A.155 28A.300.070	34 C.F.R. 300.506
392-172-317	28A.155 28A.300.070	34 C.F.R. 300.506
392-172-324	28A.155 28A.300.070	34 C.F.R. 300.662
392-172-328	28A.155 28A.300.070	34 C.F.R. 300.660
392-172-329	28A.155 28A.300.070	34 C.F.R. 300.660
392-172-330	28A.155 28A.300.070	34 C.F.R. 300.660 and 300.662
392-172-332	28A.155 28A.300.070	34 C.F.R. 300.662
392-172-334	28A.155 28A.300.070	34 C.F.R. 300.660 and 330.661
392-172-338	28A.155 28A.300.070	34 C.F.R. 300.660 and 300.661
392-172-348	28A.155 28A.300.070	34 C.F.R. 300.661
392-172-350	28A.155 28A.300.070	34 C.F.R. 300.507
392-172-351	28A.155 28A.300.070	34 C.F.R. 300.507
392-172-352	28A.155 28A.300.070	34 C.F.R. 300.507 and 300.508
392-172-354	28A.155 28A.300.070	34 C.F.R. 300.509
392-172-356	28A.155 28A.300.070	34 C.F.R. 300.511
392-172-360	28A.155 28A.300.070	34 C.F.R. 300.510 and 300.512
392-172-362	28A.155 28A.300.070	34 C.F.R. 300.513
392-172-364	28A.155 28A.300.070	34 C.F.R. 300.514
392-172-370	28A.155 28A.300.070	34 C.F.R. 300.519-300.529
392-172-371	28A.155 28A.300.070	34 C.F.R. 300.520 and 300.521
392-172-373	28A.155 28A.300.070	34 C.F.R. 300.519
392-172-37500	28A.155 28A.300.070	34 C.F.R. 300.520
392-172-37505	28A.155 28A.300.070	34 C.F.R. 300.121 and 300.520
392-172-37510	28A.155 28A.300.070	34 C.F.R. 300.520
392-172-377	28A.155 28A.300.070	34 C.F.R. 300.520
392-172-379	28A.155 28A.300.070	34 C.F.R. 300.521
392-172-381	28A.155 28A.300.070	34 C.F.R. 300.522
392-172-38300	28A.155 28A.300.070	34 C.F.R. 300.523
392-172-38305	28A.155 28A.300.070	34 C.F.R. 300.523
392-172-38310	28A.155 28A.300.070	34 C.F.R. 300.121 and 300.524
392-172-38400	28A.155 28A.300.070	34 C.F.R. 300.525
392-172-38405	28A.155 28A.300.070	34 C.F.R. 300.526
392-172-38410	28A.155 28A.300.070	34 C.F.R. 300.527
392-172-38415	28A.155 28A.300.070	34 C.F.R. 300.528
392-172-385	28A.155 28A.300.070	34 C.F.R. 300.529
392-172-388	28A.155	
392-172-390	28A.155	

392-172-392	28A.155	
392-172-394	28A.155	
392-172-396	28A.155	
392-172-398	28A.155	
392-172-400	28A.155 28A.300.070	34 C.F.R. 99 and 330.560
392-172-402	28A.155 28A.300.070	34 C.F.R. 300.500 and 300.560
392-172-404	28A.155 28A.300.070	34 C.F.R. 300.127 and 300.561
392-172-408	28A.155 28A.300.070	34 C.F.R. 300.562 and 300.576
392-172-410	28A.155 28A.300.070	34 C.F.R. 300.563
392-172-414	28A.155 28A.300.070	34 C.F.R. 300.565
392-172-416	28A.155 28A.300.070	34 C.F.R. 300.566
392-172-418	28A.155 28A.300.070	34 C.F.R. 300.567-569
392-172-420	28A.155 28A.300.070	34 C.F.R. 99.22 and 34 C.F.R. 300.570
392-172-422	28A.155 28A.300.070	34 C.F.R. 300.571
392-172-424	28A.155 28A.300.070	34 C.F.R. 300.572
392-172-426	28A.155 28A.300.070	34 C.F.R. 300.573
392-172-500	28A.155 28A.300.070	34 C.F.R. 300.650-300.653
392-172-502	28A.155 28A.300.070	34 C.F.R. 300.142
392-172-50300	28A.155 28A.300.070	34 C.F.R. 300.142
392-172-50305	28A.155 28A.300.070	34 C.F.R. 300.142
392-172-504	28A.155 28A.300.070	34 C.F.R. 300.1, 300.3, 300.128 and 300.141
392-172-506	28A.155 28A.300.070	34 C.F.R. 300.370 and 300.620-624
392-172-507	28A.155 28A.300.070	34 C.F.R. 300.153-154
392-172-510	28A.155 28A.300.070	34 C.F.R. 300.750-300.753
392-172-511	28A.155 28A.300.070	34 C.F.R. 300.755
392-172-512	28A.155 28A.300.070	34 C.F.R. 300.3, 300.141, 300.152 and 300.155
392-172-514	28A.155 28A.300.070	34 C.F.R. 300.3, 300.141, 300.144-300.145 and 300.155
392-172-516	28A.155 28A.300.070	34 C.F.R. 300.3 and 300.155
392-172-520	28A.155 28A.300.070	34 C.F.R. 300.401-300.402
392-172-526	28A.155 28A.300.070	34 C.F.R. 300.452
392-172-550	28A.155 28A.300.070	34 C.F.R. 300.135 and 300.380
392-172-552	28A.155 28A.300.070	34 C.F.R. 300.23 and 300.136
392-172-553	28A.155 28A.300.070	34 C.F.R. 300.381
392-172-559	28A.155 28A.300.070	34 C.F.R. 300.382
392-172-561	28A.155 28A.300.070	34 C.F.R. 300.221
392-172-574	28A.155 28A.300.070	34 C.F.R. 300.136
392-172-576	28A.155 28A.300.070	34 C.F.R. 300.136
392-172-57700	28A.155 28A.300.070	34 C.F.R. 300.124-300.125 and 300.137
392-172-57800	28A.155 28A.300.070	34 C.F.R. 300.138-300.139
392-172-57900	28A.155 28A.300.070	34 C.F.R. 300.146
392-172-580	28A.155 28A.300.070	34 C.F.R. 300.180
392-172-582	28A.155 28A.300.070	34 C.F.R. 300.190-300.192
392-172-583	28A.155 28A.300.070	34 C.F.R. 300.181
392-172-584	28A.155 28A.300.070	34 C.F.R. 300.3 and 300.180
392-172-585	28A.155 28A.300.070	34 C.F.R. 300.182



329-172-588	28A.155 28A.300.070	34 C.F.R. 300.242
392-172-590	28A.155 28A.300.070	34 C.F.R. 300.3, 300.196-300.197
392-172-595	28A.155 28A.300.070	34 C.F.R. 300.3 and 300.155
392-172-600	28A.155 28A.300.070	34 C.F.R. 300.230
392-172-605	28A.155 28A.300.070	34 C.F.R. 300.13, 300.155
392-172-610	28A.155 28A.300.070	34 C.F.R. 300.231
392-172-615	28A.155 28A.300.070	34 C.F.R. 300.232
392-172-620	28A.155 28A.300.070	34 C.F.R. 300.233
392-172-625	28A.155 28A.300.070	34 C.F.R. 300.234
392-172-630	28A.155 28A.300.070	34 C.F.R. 300.235
392-172-635	28A.155 28A.300.070	34 C.F.R. 300.244
392-172-640	28A.155 28A.300.070	34 C.F.R. 300.245
392-172-645	28A.155 28A.300.070	34 C.F.R. 300.246
392-172-650	28A.155 28A.300.070	34 C.F.R. 300.247
392-172-655	28A.155 28A.300.070	34 C.F.R. 300.248
392-172-660	28A.155 28A.300.070	34 C.F.R. 300.249
392-172-665	28A.155 28A.300.070	34 C.F.R. 300.250

Statute Being Implemented: Chapter 28A.155 RCW, Special education.

Summary: These amendments incorporate the changes to the provision of special education services required by federal law. Changes include parental involvement in the identification, evaluation, and delivery of special education services and the procedures for those activities; student transition; changes to procedural safeguards and due process procedures; mediation requirements; private school participation; discipline procedures; citizen complaints; childfind; monitoring; and fiscal apportionment. The amendments remove procedures no longer required including written staff supervision plan; summary analysis, and other housekeeping language.

Reasons Supporting Proposal: The Office of Superintendent of Public Instruction is required to implement its policies and procedures through regulation in order to receive federal funding for special education students.

Name of Agency Personnel Responsible for Drafting: Pam McPartland, Supervisor, Office of the Superintendent of Public Instruction, (360) 753-6733, Implementation and Enforcement: Douglas Gill, Director, Office of Superintendent of Public Instruction, (360) 753-6733.

Name of Proponent: Office of Superintendent of Public Instruction, Special Education, governmental.

Rule is necessary because of federal law, Individuals with Disabilities Education Act, Amendments 1997 20 U.S.C. 1401 et seq.

Explanation of Rule, its Purpose, and Anticipated Effects: These rules govern school districts and other public agencies responsible for the provision of services to special education students. They include dispute resolution methods that include mediation, citizen complaints and due process procedures. The purpose of the rule is to assure that, to the extent possible, special education students are educated with the same curriculum and in the same settings as nondisabled students. The rules clarify that schools and other public agencies serving special education students must make all efforts to ensure parental involvement with their children in all phases of special education services, including the identi-

fication, evaluation, delivery and placement. The rules specify the procedures to be used in each phase of a special education student's eligibility determination, including identification, evaluation, eligibility determination, special education and related services needs, discipline, and termination from services. After the passage of the 1997 amendments to IDEA, local schools and other public agencies have been required to follow existing state regulations and federal law, where it conflicts with existing state regulations, or where it adds additional requirements. Adoption of these rules will align state rules with federal rules and thereby provide schools a single set of rules and guidance for complying with both federal and state special education requirements; eliminate confusion; and provide a basis for educating schools respecting the 1997 IDEA amendments.

Proposal Changes the Following Existing Rules: The following areas have changed under the proposed rules: Services that are recognized in this state as specially designed instruction are defined in that section and have been removed from the definition of related services. Parents are included as members of the evaluation process. Evaluations are documented in an evaluation report, replacing the written summary analysis. Notice and consent provisions are expanded to include consent for reevaluations. Revocation of consent is defined. IEP requirements are modified to increase student's involvement in general education. Local educational agencies are required to develop procedures for students with disabilities, including highly mobile students, private school students and students advancing from grade to grade. Appointments of foster parents as surrogates are clarified. Discipline procedures clarify change of placement, educational services required, due process for removing students with dangerous behavior, treatment of students not yet identified as an eligible special education student, and expedited hearing rights of parents and schools. Contracting and NPA procedures for school districts are amended to reflect current practice requirements. Services to students in private schools unilaterally placed by their parents have been modified. Mediation include options for local school districts to develop processes to encourage mediation. Transfer of rights to adult students is defined. School responsibility for confidentiality and disclosure of student records is clarified. Rights to appeal citizen complaint procedures are repealed. Special education personnel requirements are updated. Medicaid coverage of special education students is updated to reflect current law. Monitoring, funding and fiscal auditing are amended to reflect current procedures and federal requirements.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule affects how governmental entities provide special education services.

RCW 34.05.328 does not apply to this rule adoption. The Office of Superintendent of Public Instruction is not one of the agencies required under RCW 34.05.328 to complete the significant legislative analysis. The Office of Superintendent of Public Instruction does maintain a legislative analysis on file.

Hearing Location: At Educational Service District 113, Olympia/Grays Harbor Room, 601 McPhee Road S.W., Olympia, WA 98502, on September 21, 1999, at 6:00 p.m.;

PROPOSED

and at the Bryant Conference Center Auditorium, 910 North Ash, Spokane, WA, on September 22, 1999, at 6:30 p.m.; and at the Educational Service District 105, Kittitas Room, 33 South Second Avenue, Yakima, WA 98902, on September 27, 1999, at 4:00 p.m.

Assistance for Persons with Disabilities: Contact Helen Johnson by September 15, 1999, TDD (360) 586-0126, or (360) 753-6733.

Submit Written Comments to: Douglas Gill, Special Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, e-mail dgill@ospi.wednet.edu, fax (360) 586-0247, by September 27, 1999.

Date of Intended Adoption: September 30, 1999.

August 13, 1999

Terry Bergeson  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-010 Authority.** The authority for this chapter is RCW 28A.155.090(7) (~~which~~). This authority enables the superintendent of public instruction to promulgate rules and regulations to implement chapter 28A.155 RCW. ((Such)) This authority is supplemented by RCW 28A.300.070 which authorizes the superintendent of public instruction to receive federal funds in accordance with the provisions of federal law.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-020 Purposes.** (1) The purposes of this chapter are to:

((+)) (a) Implement chapter 28A.155 RCW consistent with the Individuals with Disabilities Education Act, 20 United States Code section 1401 et seq.;

((2) ~~Assure~~) (b) Ensure that all special education students as defined in this chapter have available a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

((3) ~~Assure~~) (c) Ensure that the rights of special education students and their parents are protected;

((4)) (d) Assist school districts and other public agencies to provide ((for)) special education and related services; and

((5) ~~Establish compliance standards for~~) (e) Assess and ensure effectiveness of the public agencies responsible for providing special education pursuant to chapter 28A.155 RCW((-), including state residential school programs which are established and operated pursuant to RCW 28A.190.020 et seq., RCW 13.04.145 and chapter 72.40 RCW.

((Special education regulations must be implemented by)) (2) School districts and other public agencies ((with an awareness)) must be aware that there are additional federal and state civil rights regulations (29 US Code 764, RCW

49.60.030, 43 USC 12101 et seq.) that apply to students who have a disability regardless of the student's eligibility for special education and related services. If a student has a physical, sensory, or mental impairment which substantially limits one or more major life activities, the district or other public agency has an obligation to provide that student appropriate educational services. Such services must be designed to meet the needs of the student with a disability to the same extent the needs of students without disabilities are met. A school district and other public agency's obligation to provide appropriate educational services to meet the needs of a student who has a disability exists separate and apart from the obligation to provide a free and appropriate public education to a student who qualifies for special education and related services under these regulations.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-030 Students' rights to special education programs.** (1) Each school district or other public agency shall provide every special education student between the age of three and twenty-one years, a free and appropriate educational program, including special education students who have been suspended or expelled from school. A free appropriate public education is available to any eligible student even though the student is advancing from grade to grade. The right to special education for eligible students commences on their third birthday with an individualized education program in effect by that date. If an eligible student's third birthday occurs during the summer, the student's individualized education program team shall determine the date when services under the individualized education program will begin.

(2) School districts or other public agencies may provide special education and related services to students with a disability who meet the eligibility criteria under WAC 392-172-114(1) in the birth through two years age group. If a school district or other public agency provides an education to any student who is not disabled in the birth through two years age group, the district or other public agency shall make special education any required and related services available pursuant to this chapter to all its special education students of the same age.

(3) Any student referred for special education and related services shall qualify pursuant to eligibility criteria set forth in this chapter.

(4) A special education student shall remain eligible for special education and related services until one of the following occurs:

(a) ((The multidisciplinary team)) A group of qualified professionals and the parent of the student, based on a reevaluation determines the student is no longer in need of special education; (In this case, while a disability may continue, and individual accommodations and modifications in the general education classroom may be necessary for educational benefit, such services would not represent special education services as defined in this chapter.) or

(b) The special education student has met high school graduation requirements established by the school district or

other public agency pursuant to rules of the state board of education, and the student has graduated from high school with a regular high school diploma. Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with WAC 392-172-302; or

(c) The special education student has reached age twenty-one. The student whose twenty-first birthday occurs on or before August 31 would no longer be eligible for special education. The student whose twenty-first birthday occurs after August 31, shall continue to be eligible for special education and related services for the remainder of the school year.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-035 Definitions of "free appropriate, public education," "adult student," "special education student," "parent," and "public agency."** As used in this chapter:

(1) "Free appropriate, public education" means special education and related services which:

(a) Are provided at public expense, under local school district or other public agency supervision and direction, and without charge to parents;

(b) Meet the standards of the state educational agency and the state board of education, including the requirements of this chapter;

(c) Include preschool, elementary school, or secondary school education in the state; and

(d) Are provided in conformance with individualized education program requirements of this chapter.

(2) "Special education student" (~~and "student" (depending upon the context in which the terms are used))~~) means:

(a) Any student, enrolled in school or not, (i) who has been identified as having a disability, (ii) whose disability adversely affects the student's educational performance, (iii) and whose unique needs cannot be addressed exclusively through education in general education classes with or without individual accommodations and is ((therefore)) determined to be ((in need of)) eligible for special education services; or

(b) ~~((For the purpose of due process protections, a person under the age of twenty-one enrolled in school or not, who has been referred and for whom the school district or other public agency has made a decision to evaluate; or~~

(e)) A ((person)) student under the age of twenty-one who resides in a residential school serving students with a disability in accordance with RCW 28A.190.020 et seq., RCW 13.04.145 and chapter 72.40 RCW; who also qualifies pursuant to (a) of this subsection.

(3) "Adult student" means a special education student who is ~~((over the age of))~~ eighteen years of age or older and who has not been judged incapacitated by a court of law. A student shall assume and be entitled to exercise all rights, duties and responsibilities otherwise granted to ~~((or imposed upon))~~ parents by this chapter upon attaining the age of eighteen consistent with WAC 392-172-309. The adult student

shall retain and be entitled to exercise the same until he or she has been judged incapable of exercising these rights by a court of law.

(4) "Parent" means a natural or adoptive parent, a guardian, an adult person acting as a parent, or a surrogate parent who has been appointed in accordance with ~~((this chapter))~~ WAC 392-172-308. The term includes a person acting in the place of a parent, such as a grandparent or stepparent with whom a special education student lives, as well as persons who are legally responsible for ~~((a))~~ the student's welfare. The term does not include the state if the special education student is a ward of the state or a foster parent unless appointed as a surrogate parent.

(5) As used in this chapter, "public agency" means:

(a) Each public school district in the state;

(b) Each educational service district that provides special education or related services to one or more students with a disability;

(c) Each state operated program; and

(d) Each public ~~((or private))~~ organization or entity ~~((or person which provides)), including other political subdivisions of the state providing~~ special education and/or related services to one or more special education students ~~((with a disability on behalf of a public school district or other public agency))~~ regardless of whether ((or not)) the organization or entity receives ((federal)) funds ((made available for purposes of)) under the Individuals with Disabilities Education Act.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-040 Definitions of "evaluation," "current evaluation," "reevaluation," and "consent."** As used in this chapter:

(1) "Evaluation" means procedures used to determine:

(a) Whether a student is disabled; ~~((and))~~

(b) ~~((The nature and extent of the special education and related services that the student requires, if any. The term includes procedures used selectively with an individual student and does not include basic tests administered to or procedures used with all students in a school, grade, or class.~~

(2) "Current evaluation data" for determination of eligibility means:

(a) ~~Evaluation data obtained during a period of ninety calendar days prior to determining eligibility for students ages birth to six; or~~

(b) ~~Evaluation data obtained during a period of one hundred eighty calendar days prior to determining eligibility for students ages six through twenty-one.~~

(3)) Whether the disability adversely affects educational performance; and

(c) Whether the student is in need of specially designed instruction.

(2) "Reevaluation" means procedures used to determine the special education student's continuing eligibility and need for special education and related services consistent with WAC 392-172-182 through 392-172-190. Reevaluation ~~((may))~~ shall also be used to determine the appropriateness of the services being provided to the special education student.

PROPOSED

~~((4)) (3) "Consent" means that the parent or adult student:~~

~~(a) Has been fully informed of all information relevant to the activity for which consent is sought in his or her native language or other mode of communication (including being informed of existing evaluation data to be used);~~

~~(b) Understands and agrees in writing to the activity for which consent is sought, and the consent describes the activity and lists any records which will be released and to whom; and~~

~~(c) Understands that the granting of consent is voluntary and may be revoked at any time.~~

~~If a parent revokes consent, that revocation is not retro-active (it does not negate an action that has occurred after the consent was given and before the consent was revoked).~~

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-045 Definition of "special education(=)" and other terms.** (1) As used in this chapter "special education" means (instruction that is specially designed to meet the unique needs of a special education student and provided at no cost to the parent or student. Specially designed instruction includes instruction conducted in the classroom, in the home, in hospitals, institutions, and in other settings as well as physical education, and vocational education. Special education also includes specially designed instruction when it is carried out as part of speech) specially designed instruction provided to an eligible student as defined in chapter 392-172 WAC. Specially designed instruction as defined in subsection (4)(a) of this section shall be provided at no cost to the parents, in conformance with the student's IEP, and designed to meet the unique needs of the student. Specially designed instruction includes instruction conducted in the classrooms, in the home, in hospitals and institutions, and in other settings; and instruction in physical education.

(2) The term does not include individual accommodations to the general education classroom or modifications to the general education curriculum that alone would be sufficient and effective to meet the learning needs of the student; nor does it include the educational services necessary to meet the needs of those students identified under WAC 392-172-020(2).

(3) Travel training, vocational training, and language services, physical and occupational therapy, orientation and mobility instruction, behavioral intervention instruction, transition services, and audiological services are considered special education under this chapter if each meets the requirements of subsection (1) of this section.

((The following terms are incorporated within the definition of special education:

(1) "Specially designed instruction" means organized and planned instructional activities which are designed by certificated special education and related services personnel. However, specially designed instruction may also be implemented by other than special education and related services personnel pursuant to an individualized education program.

~~The term does not include individual accommodations in the general education classroom which alone would be sufficient and effective to meet the individual needs of the student.~~

~~(2) "At no cost" means that all specially designed instruction is provided without charge. However, the term does not preclude incidental fees which are normally charged to nonspecial education students or their parents as a part of the general education program.~~

~~(3) "Physical education" means the development of:~~

~~(a) Physical and motor fitness;~~

~~(b) Fundamental motor skills and patterns; and~~

~~(c) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).~~

~~The term includes special physical education, adapted physical education, movement education, and motor development.~~

~~(4) "Vocational education" means organized educational programs offering a sequence of courses that are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning that contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupation-specific skills necessary for economic independence as a productive and contributing member of society. The term also includes applied technology education.~~

~~(5)) (4) The terms used in this section are defined as follows:~~

(a) "Specially designed instruction" means organized and planned instructional activities which adapt, as appropriate, to the needs of eligible students under this chapter, the content, methodology or delivery of instruction:

(i) To address the unique needs that result from the student's disability;

(ii) To ensure access of the student to the general curriculum so that the student can meet the educational standards of the school district or other public agency that apply to all students; and

(iii) Be provided by appropriately qualified special education certificated staff, or designed and supervised by this staff and carried out by general education certificated personnel or trained classified staff pursuant to a properly formulated IEP consistent with WAC 392-172-160 (1)(c), so that the level of the district's commitment of resources will be clear to the parents and other IEP team members. Student progress must be monitored and evaluated by special education certificated staff.

(b) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as part of the regular education program.

(c) "Physical education" means:

(i) The development of physical and motor fitness; fundamental motor skills and patterns; and skills in aquatics, dance, and individual and group games and sport (including intramural and lifetime sports); and

(ii) Special physical education, adapted physical education, movement education, and motor development.

(d) "Travel training" means providing instruction, as appropriate, to students with significant cognitive disabilities, and other eligible students with disabilities who require this instruction, to enable them to:

(i) Develop an awareness of the environment in which they live; and

(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in the school, in the home, at work, and in the community).

(e) "Vocational education" means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

(f) "Audiology" means the provision of habilitative activities related to a hearing impairment.

((6)) (g) "Occupational therapy" is instruction designed to improve, develop or restore functions impaired or lost through illness, injury, or deprivation or to prevent further loss.

((7)) (h) "Orientation and mobility instruction" means the provision of training/instruction in orientation and mobility for students who are visually impaired, including travel training.

((8)) (i) "Physical therapy" means developing or restoring motor function and maintaining appropriate performance commensurate with the student's unique needs.

((9)) (j) "Speech and language services" mean the provision of instruction for the habilitation or prevention of communication disorders.

((10) "General education classroom" means instruction provided in a classroom that is generally designed to meet the needs of typically developing students who do not need special education.) (k) "Behavioral intervention instruction" means providing instruction which addresses student behavior that impedes involvement and/or progress in the general curriculum.

(l) "Transition services" means a coordinated set of activities for a special education student that:

(i) Is designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(ii) Is based on the individual student's needs, taking into account the student's preferences and interests; and

(iii) Includes:

(A) Instruction;

(B) Related services;

(C) Community experiences;

(D) The development of employment and other post-school adult living objectives; and

(E) If appropriate, acquisition of daily living skills and functional vocational evaluation.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

WAC 392-172-055 ((Definition of—)) **Related services.**((1)) (1) As used in this chapter, the term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a special education student to benefit from special education. ((These services include communication disorders services and audiology, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and evaluation of disabilities in students, counseling services, including rehabilitation counseling, medical services for diagnostic or evaluation purposes, and orientation and mobility services. The term also includes school health services, social work services in schools, parent counseling and training, and classified staff services.))

Related services include classified staff services, counseling services, early identification and evaluation of disabilities in students, medical services, parent counseling and training, psychological services, recreation, rehabilitation counseling services, school health services, social work services in schools, and transportation.

The list of related services is not exhaustive and may include other developmental, corrective, or supportive services, if they are required to assist a special education student to benefit from special education.

(2) If it is determined through an appropriate evaluation that a student has one of the disabilities identified in WAC 392-172-114 through 392-172-148, but only needs a related service and not special education, the student is not a special education student under this chapter.

(3) The terms used in the definition of "related services" are defined as follows:

((1) "Audiology" includes:

(a) Identification of students with hearing loss;

(b) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(c) Creation and administration of programs for the prevention of hearing loss;

(d) Counseling and guidance of students, parents, and teachers regarding hearing loss; and

(e) Determination of the student's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

((2)) (a) "Classified staff services" includes:

((a)) (i) Services provided by classified staff which provide for the student's safety, personal care, and instructional assistance; and

((b)) (ii) Services provided to certificated staff by classified staff which provide assistance for special education students to achieve placement in the least restrictive environment.

((3)) (b) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel. "Counseling services" also includes counseling and guidance of parents, children and teachers by audiologists regarding hearing loss and

PROPOSED

by speech pathologists regarding speech and language impairment.

~~((4))~~ ~~(c)~~ "Early identification and evaluation of disabilities in students" means the implementation of a formal plan for identifying a disability as early as possible in a student's life.

~~((5))~~ ~~(d)~~ "Medical services" means diagnostic and evaluation services provided by a licensed physician to determine a student's medically related disabling condition which may result in the student's need for special education and related services.

~~((6))~~ "Occupational therapy" includes:

~~(a)~~ The identification and evaluation of the student's physical and self-care status;

~~(b)~~ Determination of the student's need for occupational therapy; and

~~(c)~~ Related counseling and guidance of parents, students, and staff regarding the provision of occupational therapy.

~~(7)~~ "Orientation and mobility services" includes:

~~(a)~~ Identification and evaluation of the student's mobility status;

~~(b)~~ Determination of the student's need for orientation and mobility services; and

~~(c)~~ Related counseling and guidance of parents, students and staff regarding orientation and mobility services.

~~(8))~~ ~~(e)~~ "Parent counseling and training" means assisting parents in understanding the special needs of their child ~~(and)~~, providing parents with information about child development, and helping parents to acquire the necessary skills that will allow them to support the implementation of their student's IEP.

~~((9))~~ "Physical therapy" includes:

~~(a)~~ Identification and evaluation of the student's physical status;

~~(b)~~ Determination of the student's need for physical therapy; and

~~(c)~~ Related counseling and guidance of parents, students and staff regarding physical therapy services.

~~((10))~~ ~~(f)~~ "Psychological services" includes:

~~((a))~~ ~~(i)~~ Administering psychological and educational tests, and other evaluation procedures;

~~((b))~~ ~~(ii)~~ Interpreting evaluation results;

~~((c))~~ ~~(iii)~~ Obtaining, integrating, and interpreting information about the student's behavior and conditions relating to learning;

~~((d))~~ ~~(iv)~~ Consulting with other staff members in planning school programs to meet the special needs of students as indicated by psychological tests, interviews, and behavioral evaluations; ~~(and~~

~~(e))~~ ~~(v)~~ Planning and managing a program of psychological services, including psychological counseling for students and parents; and

(vi) Assisting in developing positive behavioral intervention strategies.

~~((11))~~ ~~(g)~~ "Recreation" includes:

~~((a))~~ ~~(i)~~ Assessment of leisure function;

~~((b))~~ ~~(ii)~~ Therapeutic recreation services;

~~((c))~~ ~~(iii)~~ Recreation programs in school and community agencies; and

~~((d))~~ ~~(iv)~~ Leisure education.

~~((12))~~ ~~(h)~~ "Rehabilitation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a special education student. The term also includes vocational rehabilitation services provided to special education students by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

~~((13))~~ ~~(i)~~ "School health services" means nursing or other health services provided to a special education student by a qualified school nurse ~~(or other qualified person)~~, registered nurse, licensed practical nurse or other persons qualified or appropriately trained to provide the services in the student's educational setting.

~~((14))~~ ~~(j)~~ "Social work services in schools" include:

~~((a))~~ ~~(i)~~ Preparing a social or developmental history on a special education student;

~~((b))~~ ~~(ii)~~ Group and individual counseling with the student and family;

~~((c))~~ ~~(iii)~~ Working with those problems in a student's living situation (home, school, and/or community) that affect the student's adjustment in school; ~~(and~~

~~(d))~~ ~~(iv)~~ Mobilizing school and community resources to enable the student to benefit from his or her educational program; and

(v) Assisting in developing positive behavioral intervention strategies.

~~((15))~~ "Speech and language services" include:

~~(a)~~ Identification of students with specific speech and language disorders;

~~(b)~~ Diagnosis and appraisal of speech and language disorders;

~~(c)~~ Referral for medical or other professional attention necessary for the habilitation of speech and language disorders; and

~~(d)~~ Counseling and guidance of parents, students, and staff regarding speech and language disorders.

~~((16))~~ ~~(k)~~ "Transportation" includes:

~~((a))~~ ~~(i)~~ Travel to and from school and between schools;

~~((b))~~ ~~(ii)~~ Travel in and around school buildings; and

~~((c))~~ ~~(iii)~~ Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a special education student. ~~((The list of related services is not exhaustive and may include other developmental, corrective, or supportive services, if they are required to assist a special education student to benefit from special education.))~~

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-065 Definition—Supplementary aids and services.** As used in this chapter, the term "supplementary aids and services" means ~~((any of the following:~~

~~(1) Specially designed instruction provided in conjunction with the general education classroom by personnel qualified pursuant to WAC 392-172-200.~~

~~(2) Any other service, including assistive technology or other assistive device, provided in conjunction with the general education classroom which permits the delivery of specially designed instruction. Such instructional services must be designed, monitored, supervised and evaluated by special education personnel certificated pursuant to WAC 392-172-200 in cooperation with the general education classroom teacher)) aids, services, and other supports that are provided in regular education classes or other education-related settings to enable special education students to be educated with nondisabled students to the maximum extent appropriate in accordance with the least restrictive environment requirements.~~

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-070 Definition—Assistive technology device ((and service)).** The term "assistive technology device" means any item, piece of equipment, or product system—whether acquired commercially off the shelf, modified, or customized—that is used to increase, maintain, or improve functional capabilities of special education students.

~~((The term "assistive technology service" means any service that directly assists a special education student in the selection, acquisition, or use of an assistive technology device. The term includes:~~

~~(1) The evaluation of the needs of a special education student, including a functional evaluation of the student in the student's customary environment;~~

~~(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by special education students;~~

~~(3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;~~

~~(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;~~

~~(5) Training or technical assistance for a special education student, or if appropriate, the student's family; and~~

~~(6) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ or are otherwise substantially involved in the major life functions of students with disabilities.))~~

#### NEW SECTION

**WAC 392-172-073 Definition—Assistive technology service.** The term "assistive technology service" means any service that directly assists a special education student in the selection, acquisition, or use of an assistive technology device. The term includes:

(1) The evaluation of the needs of a special education student, including a functional evaluation of the student in the student's customary environment;

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by special education students;

(3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for a special education student, or if appropriate, the student's family; and

(6) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ or are otherwise substantially involved in the major life functions of special education students.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-075 Availability of assistive technology.** Each public agency shall ensure that assistive technology devices or assistive technology services, or both, ~~((are made available to a special education student if required as a part of the student's individualized education program))~~ are made available to a special education student if required as part of the student's:

(1) Special education;

(2) Related services; or

(3) Supplementary aids and services.

On a case-by-case basis, the use of school-purchased assistive technology devices in a student's home or in other settings is required if the student's IEP team determines that the student needs access to those devices in order to receive FAPE.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-100 Childfind.** (1) The local district or other public agency shall conduct childfind activities that apply to students ages birth through twenty-one for the purpose of locating, evaluating and identifying students with a suspected disability, regardless of the severity of their disability, who are residing within the boundaries of the district or other public agency and who are not currently receiving special education and related services.

~~((Childfind activities shall include written notification to all parents of children in the district or other public agency regarding access to and the use of the school district and other public agency's childfind system. Written notification and posting will be consistent with WAC 392-172-306 (2)(b).~~

~~Childfind activities shall apply to students ages birth through twenty-one and may include, but are not limited to: Posting notice in school buildings of the availability of special education programs, preschool developmental screening, local media informational campaigns, liaison with public health and other medical and social agencies, public or private, a questionnaire for first-time enrolling students, screen-~~

PROPOSED

ing of district-wide group standardized test results, in-service education to teaching staff, and cooperation as requested with state childfind programs.) These activities shall extend to students attending private schools, including religious schools. The activities undertaken to carry out childfind in private schools shall be:

(a) Comparable to activities undertaken in public schools; and

(b) Developed in consultation with appropriate representatives of private school students on how to carry out the activities described in this section.

(2) Childfind activities must be calculated to reach:

(a) Highly mobile students with disabilities, such as homeless and migrant students; and

(b) Students who are suspected of being a student with a disability and in need of special education, even though they are advancing from grade to grade.

(3) The local school district, or other public agency shall have policies and procedures in effect that describe the methods it uses to conduct childfind activities in accordance with subsections (1) and (2) of this section. Methods used may include but are not limited to: Written notification to all parents of students in the district's or other public agency's jurisdiction regarding access to and the use of its childfind system; posting notices in school buildings and other public areas describing the availability of special education programs; offering preschool developmental screening; conducting local media informational campaigns; coordinating distribution of information with other childfind programs within public and nonpublic agencies; screening district-wide test results; inservice education to staff; and other methods developed by the school district to identify, locate and evaluate students. Such methods may also include a systematic, intervention based, process within general education for determining the need for a special education referral.

(4) The collection and use of data to meet the requirements of this section are subject to the confidentiality requirements in WAC 392-172-400 through 392-172-428.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-102 (~~Preevaluation procedures~~) Referrals.** A referral of a student suspected of having a disability may be (~~originated or transmitted through~~) initiated by any source, either in writing or verbally(-A referral may be initiated by any source), including but not limited to parents, medical personnel, school district or other public agency personnel, community agencies, civil authorities, through district screening procedures, and by other (~~identified~~) interested persons.

(-A referral may be initiated by any source), including but not limited to parents, medical personnel, school district or other public agency personnel, community agencies, civil authorities, through district screening procedures, and by other (~~identified~~) interested persons.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-104 Evaluation procedures—Time line.** (~~A school district or other public agency must complete a written referral when a student suspected of having a disabling condition is brought to the attention of any certificated staff member or administrator.~~

(1) ~~If the referral under WAC 392-172-102 is made to a school district or other public agency certified staff or administrator (other than the special education designee) such staff must notify the school district and other public agency's special education designee at the time of the referral. Within twenty-five school days, the district or other public agency superintendent or designee shall:~~

(a) ~~Record the circumstance by date, origin, and reason(s) for the referral;~~

(b) ~~Provide the student's parent(s) or the adult student written notice that the student has been referred because of a suspected disabling condition and that the district or other public agency will determine whether or not there is good reason to believe that the student is a candidate for evaluation;~~

(c) ~~Review the referral;~~

(d) ~~Collect and examine existing school, medical and other records in the possession of the school district or other public agency; and~~

(e) ~~Based on the existing record, make a determination whether or not the student is a candidate for evaluation. This decision shall be recorded in writing and shall set forth the date and the name of the person making the decision. The superintendent or designee shall direct a notice to the student's parent(s) or the adult student that complies with the requirements of WAC 392-172-306.)~~ (1) When a student suspected of having a disability is brought to the attention of any certificated staff member under WAC 392-172-102, the school district or other public agency must document the referral in writing. The district or other public agency shall:

(a) Provide the student's parent(s) or the adult student written notice that the student has been referred because of a suspected disabling condition and that the district or other public agency will determine with parental input whether or not there is good reason to believe that the student is a candidate for evaluation;

(b) Review the referral;

(c) Collect and examine existing school, medical and other records in the possession of the parent, school district or other public agency; and

(d) Within twenty-five school days, make a determination whether or not the student is a candidate for evaluation. This decision shall be recorded in writing and shall set forth the date and the names of the persons making the decision. The superintendent or designee shall direct a notice to the student's parent(s) or the adult student that complies with the requirements of WAC 392-172-302.

(2) When the student is a candidate for evaluation, the school district or other public agency shall fully evaluate the student and arrive at a decision pursuant to WAC ((392-172-154)) 392-172-111 within:

(a) Thirty-five school days after the date written consent for an evaluation has been provided by the parent(s) or the adult student; or

(b) Thirty-five school days after the date the refusal of the parent(s) or the adult student to grant consent has been overridden pursuant to a hearing (or appeal) in accordance with WAC 392-172-350 et seq.; or

(c) Such other time period as may be agreed to by the parent(s) or the adult student and documented by school



authorities, including specifying the reasons for extending the time line.

(3) The school district or other public agency shall ensure that within thirty-five school days following the agency's receipt of parent consent to an initial evaluation of a student:

(a) The student is evaluated; and

(b) If determined eligible under this chapter, special education and related services are made available to the student in accordance with an IEP.

#### NEW SECTION

**WAC 392-172-105 Parent participation in meetings and notice.** (1) Parents shall be afforded an opportunity to participate in meetings with respect to the identification, evaluation, educational placement and provision of a free appropriate public education to the student.

(2) Each public agency shall notify parents consistent with WAC 392-172-15700 (1)(a) and (2) to ensure that parents have the opportunity to participate in meetings described in this section.

(3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the student's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

(4) Each public agency shall ensure that the parents of a special education student are members of any group that makes decisions on the educational placement of their student. In implementing this requirement, the public agency shall use procedures consistent with WAC 392-172-15700 (1) and (2).

(5) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their student, the public agency shall use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

(6) A placement decision may be made by a group without the involvement of the parents, if the public agency is unable to obtain the parents' participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement, including information that is consistent with the requirements of WAC 392-172-15700(4).

(7) The public agency shall make reasonable efforts to ensure that the parents understand, and are able to participate in, any group discussions relating to the educational placement of their student, including arranging for an interpreter for parents with deafness, or whose native language is other than English.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-106 General areas of evaluation.** (1) The evaluation of a student shall be in all areas related to the suspected disability, including, ((but not limited to)) if appro-

prate, health, vision, hearing, social ((skills,)) and emotional status, general intelligence, academic performance, ((com- munication skills,)) communicative status, and motor abilities((, career, vocational, and the need for transition ser- vices)).

(2) The evaluation shall be sufficiently comprehensive to identify all of the student's special education and related ser- vices needs, whether or not commonly linked to the disability category in which the student has been classified.

#### NEW SECTION

**WAC 392-172-107 Determination of needed evalua- tion data.** (1) As part of an evaluation, a group that includes the IEP team described in WAC 392-172-153, and other qualified professionals, as appropriate, shall:

Review existing evaluation data on the student, includ- ing:

(a) Evaluations and information provided by the parents of the student;

(b) Current classroom-based assessment and observa- tions; and

(c) Observations by teachers and related services provid- ers.

(2) Based on the above review and input from the stu- dent's parents, identify what additional data, if any, are needed to determine:

(a) Whether the student has a particular category of dis- ability as described in this chapter;

(b) The present levels of performance and educational needs of the student; and

(c) Whether the student needs special education and related services.

(3) The public agency shall administer tests and any other evaluation materials as may be needed to produce the data required to make the determinations listed in subsection (2) of this section.

(4) If no additional data are needed to make the determi- nation listed in subsection (2) of this section, the public agency shall notify the student's parents of this fact and the reasons for this decision.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-108 ((General)) Evaluation ((safe- guards—Personnel, materials and)) procedures. ((+)) Every student who is evaluated or reevaluated)) The evalua- tion or reevaluation of a special education student shall be ((evaluated)) according to the procedures established in this chapter. ((The superintendent of public instruction shall ensure that)) Each public agency ((establishes)) shall estab- lish and implement((s protection in)) evaluation procedures which meet the requirements of this chapter.**

(1) Before the initial provision of special education and related services ((to a special education student)), a full and individual initial evaluation of the student's educational needs must be conducted ((in accordance with this chapter)).

(2) ((The evaluation of a student (except one completed for a communication disordered student) shall be made by a

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multidisciplinary team. The multidisciplinary team is a group of professionals selected by the district or other public agency and knowledgeable about the student and the area(s) of suspected disability(ies).

(3) If the referral is generated by a general education classroom teacher, the district or other public agency shall invite the referring teacher to serve on the multidisciplinary team.

(4) For a student suspected of having a learning disability, the multidisciplinary team must include:

(a) The student's general education classroom teacher; or

(b) If the child does not have a general education classroom teacher, a general education classroom teacher qualified to teach a child of his or her age; or

(c) For a child of less than school age, an individual qualified by the state to teach a child of his or her age; and

(d) At least one individual qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech language pathologist, or remedial reading teacher.

(5) Each professional member of the (team) group shall be licensed, registered, credentialed, or certificated according to his or her professional standards in accordance with state statutes and rules. (If parents request the opportunity to attend a multidisciplinary team meeting, they shall be granted this opportunity. Scheduling of the multidisciplinary team meeting shall be at the discretion of the school district or other public agency. Upon request, the district or other public agency shall notify the parent(s) of the time and place of multidisciplinary team meetings. These provisions apply to all multidisciplinary team meetings conducted by the district or other public agency, including those resulting from initial evaluations and reevaluations.

(6)

(3) A variety of assessment tools and strategies shall be used to gather relevant functional and development information about the student, including information provided by the parents, and information related to enabling the student to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities), that may assist in determining:

(a) Whether the student is a special education student consistent with WAC 392-172-035(2); and

(b) The content of the student's individualized education program.

(4) No single procedure (or test) shall be the sole criterion for determining a student's eligibility or disabling condition and/or for determining the appropriate educational program for a student.

(7) (5) Test and other evaluation materials, (procedures, and instruments) used for the purpose of identification and programming shall be selected and administered so as not to be racially or culturally discriminatory.

(8) (6) Materials and procedures used to assess a student with limited English proficiency shall be selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills.

(7) Any standardized tests and other evaluation materials that are given to a student shall have been validated for the

specific purpose for which they are used and shall accurately reflect whatever factors the tests purport to measure. If properly validated tests are unavailable, (the professional judgment of) each member of the (multidisciplinary team) group shall use professional judgment to determine eligibility for special education based on other evidence of the existence of a disability and need for special education. This professional judgment shall be documented in (a written narrative) the evaluation report. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report.

(9) (8) All tests and other evaluation materials shall be administered by (qualified) trained and knowledgeable personnel in conformance with the instructions of the test producer.

(10) (9) Tests and other evaluation materials (procedures or instruments) shall be provided and administered in a student's (primary) native language or other mode of communication, unless it is clearly not feasible to do so. Tests shall be selected and administered so as to ensure that, when a test is administered to a student with impaired (and/or unique) sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the student's impaired (and/or unique) sensory, manual, (communication) or speaking skills (except where those skills are the factors the test purports to measure). Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(11) In conducting evaluation activities, appropriate evaluation team members shall:

(a) Collect and review all available existing school, medical, and other records pertinent to the suspected disabling condition(s) of the student, including previous screening and evaluation results, health reports, relevant cumulative records and recommendations of related service providers; and

(b) Conduct evaluation activities required by this chapter; and

(c) Collect such other data as needed to verify the results of standardized testing, including but not limited to parent and/or teacher interviews and current classroom performance data.

(12) Each person actually performing an evaluation shall complete and sign an evaluation report. Information used to support the evaluation, but which is not incorporated into the file (e.g., review of health record), shall be referenced as to date of record, location, and source person. Each report shall specify:

(a) The procedures and instruments used;

(b) The results obtained;

(c) The apparent significance of findings as related to the student's instructional program, including a description of the specific factors which are interfering with the student's educational performance and the special education and related services needed to assist the student in benefiting from his or her educational placement; and

~~(d) The need to schedule services over a period of time that exceeds the regular one hundred eighty day school calendar.)~~ (10) Each school district or other public agency shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(11) Each school district or other public agency shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

(12) For a student suspected of having a learning disability, the determination of whether the student is eligible under this chapter shall be made by the student's parents and a group of qualified professionals which must include:

(a) The student's general education classroom teacher; or  
(b) If the child does not have a general education classroom teacher, a general education classroom teacher qualified to teach a child of his or her age; or

(c) For a child of less than school age, an individual qualified by the state to teach a child of his or her age; and

(d) At least one individual qualified to conduct individual diagnostic examinations of children, such as school psychologist, speech language pathologist, or remedial reading teacher.

~~(13) ((A written summary analysis of the))~~ An evaluation report((s)) shall be developed consistent with the requirements of WAC ((392-172-152)) 392-172-109.

#### NEW SECTION

**WAC 392-172-109 Evaluation report and documentation of determination of eligibility.** (1) At a minimum, an evaluation report must include:

(a) A statement of whether the student has a disability that meets the eligibility criteria in this chapter;

(b) How the student's disability affects the student's involvement and progress in the general curriculum or for preschool children, in appropriate activities;

(c) The recommended special education and related services needed by the student including specially designed instruction;

(d) Other information, as determined through the evaluation process and parental input, needed to develop an IEP;

(e) A statement that the student was evaluated in accordance with the evaluation procedures in WAC 392-172-108; and

(f) The date and signature of each professional member of the group who made the eligibility determination certifying that the report represents his or her conclusion. If the report does not reflect his or her conclusion, the professional member of the group must attach a separate statement representing his or her conclusions.

(2) Each professional member of the group who contributed to the determination of eligibility shall document the results of their assessment. This documentation of determination of eligibility must include:

(a) The procedures and instruments used in any assessment and the results obtained;

(b) Any conclusions from observations of the student; and

(c) A statement of the apparent significance of the findings as related to the student's instructional program.

(3) In interpreting evaluation data for the purpose of determining if a student is a special education student under this chapter, and the educational needs of the student, each public agency shall:

(a) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior; and

(b) Ensure that information obtained from all of these sources is documented and carefully considered.

(4) A student may not be determined to be a special education student if the determinant factor for that decision is:

(a) Lack of instruction in reading or math; or

(b) Limited English proficiency; and

(c) The student does not otherwise meet the eligibility criteria in this chapter.

(5) For a student suspected of having a learning disability, the report must also include a statement of:

(a) All of the information required in subsection (1) of this section;

(b) The specific learning disability(ies);

(c) The basis for making the determination;

(d) The relevant behavior noted during the observation of the student;

(e) The relationship of that behavior to the student's academic functioning;

(f) The medically relevant findings, if any;

(g) A statement about whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and

(h) The determination of the group concerning the effects of environmental, cultural, or economic disadvantage.

#### NEW SECTION

**WAC 392-172-111 Determination of eligibility and parental notification.** (1) Upon completing the administration of tests and other evaluation materials:

(a) A group of qualified professionals and the parent of the student shall determine whether the student is a special education student in need of special education and related services, as defined in this chapter; and

(b) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

(2) If a determination is made that a student has a disability and needs special education and related services, an IEP must be developed for the student in accordance with this chapter.

(3) If the decision is that the student is not eligible for special education, the parents or legal guardian of the student shall be informed in writing of the evaluation findings in compliance with the notice requirements of WAC 392-172-302, within ten school days following the completion of the evaluation.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-112 Medical evaluation.** (1) Medical evaluations at the expense of a school district or other public agency shall be obtained subject to the following conditions:

(a) During the evaluation process the ~~((multidisciplinary))~~ IEP team and other qualified professionals, as appropriate, suspects a student of having a health problem which may affect his or her eligibility and need for special education.

(b) In accordance with criteria established by the school district or other public agency ~~((except in the case of an independent evaluation pursuant to WAC 392-172-150))~~.

(2) Medical evaluation services necessary to make a determination of the educational needs of residential school students, shall be the responsibility of the department of social and health services pursuant to RCW 28A.190.040. The state schools for the deaf and blind are responsible for the provision of these services under chapter 72.40 RCW.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-114 Definition and eligibility criteria for developmentally delayed.** Definition and eligibility criteria for developmentally delayed are as follows:

(1) As used in this chapter, the term "developmentally delayed, birth to ~~((thirty-six months))~~ three years" shall mean those children under ~~((thirty-six months))~~ three years of age who:

(a) Demonstrate a 1.5 standard deviation or twenty-five percent delay in the developmental area of ~~((cognition (WAC 392-172-116(1)), communication (WAC 392-172-116(2)), fine motor (WAC 392-172-116(3)), gross motor (WAC 392-172-116(4)), or motor which for the purpose of this section shall be a combined delay of fine motor (WAC 392-172-116(3)) and gross motor (WAC 392-172-116(4)))~~ cognitive development, communication development, physical development, social emotional development, or adaptive development as defined in WAC 392-172-116; or

(b) Qualify for one of the other eligibility categories specified in this chapter ~~((unless otherwise excluded));~~ and

(c) Need special education and related services. Such children in order to continue to be eligible for special education and related services must be reevaluated prior to age three.

(2) As used in this chapter, the term "developmentally delayed, three to six years" shall mean those children between ~~((thirty-six months and the age of eligibility for entry to the first grade))~~ three and six years of age who demonstrate a delay on a standardized norm referenced test, with a test-retest or split-half reliability of .80 that is at least:

(a) Two standard deviations below the mean in one or more of the ~~((six))~~ five developmental areas defined in WAC 392-172-116; or

(b) One and one-half standard deviations below the mean in two or more of the ~~((six))~~ five developmental areas defined in WAC 392-172-116; or

(c) Qualify for one of the other eligibility categories specified in this chapter unless otherwise excluded; and

(d) Need special education and related services. ~~((Children who qualify for special education as developmentally delayed must be reevaluated prior to the age of eligibility for entry to first grade and a determination made that the student either:~~

(i) ~~Qualifies under the provisions of one of the other disabling conditions in this chapter; or~~

(ii) ~~Is no longer in need of special education and related services. The procedural safeguard requirements in this chapter are also applicable to this provision.~~

~~(3) The term "developmentally delayed" does not include children under the age of eligibility for entry to the first grade who qualify solely for speech and language services under WAC 392-172-120.)~~ (e) Children aged six to nine years who qualified as "developmentally delayed, three to six years," may at the option of the school district or other public agency, continue to be eligible under the criteria for "developmentally delayed, three to six years" until they are reevaluated, not later than three years after the eligibility decision for "developmentally delayed, three to six years."

(3) As used in this chapter, the term "developmentally delayed, six to nine years" shall mean those children between six and nine years of age who either continue to qualify under subsection (2) of this section, or demonstrate a delay on a standardized norm referenced test, with a test-retest or split-half reliability of .80 that is at least:

(a) Two standard deviations below the mean in one or more of the five developmental areas defined in WAC 392-172-116; or

(b) Qualify for one of the other eligibility categories specified in this chapter; and

(c) Need special education and related services.

(4) Children who qualify for special education as "developmentally delayed, six to nine years" must be reevaluated prior to the age of nine consistent with WAC 392-172-182 et seq. and a determination made that the child either:

(a) Qualifies under the provisions of one of the other disabling conditions in this chapter; or

(b) Is no longer in need of special education and related services. The procedural safeguard requirements in this chapter are also applicable to this provision.

(5) A school district or other public agency is not required to adopt and use the category "developmentally delayed" for any children within its jurisdiction.

(6) If a school district or other public agency uses the category "developmentally delayed," the district or public agency must conform to both the definition and age range established under this section.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-116 Areas of developmental delay—Definitions.** The ~~((six))~~ five developmental areas for the purpose of applying eligibility criteria to developmentally delayed children are:

(1) Cognitive development: Comprehending, remembering, and making sense out of one's experience. Cognitive

ability is the ability to think and is often thought of in terms of intelligence;

(2) Communication development: The ability to effectively use or understand age-appropriate language, including vocabulary, grammar, and speech sounds;

(3) ~~(Fine motor: Motor skills requiring precise, coordinated use of the small muscles;~~

(4) ~~Gross motor: Motor skills used for body control such as standing, walking, balance and climbing;~~

(5) Physical development: Fine and/or gross motor skills requiring precise, coordinated, use of small muscles and/or motor skills used for body control such as standing, walking, balance, and climbing;

(4) ~~Social~~ or emotional development: The ability to develop and maintain functional interpersonal relationships and to exhibit age appropriate social and emotional behaviors; and

~~((6))~~ (5) Adaptive ((skills)) development: The ability to develop and exhibit age appropriate self-help skills, including independent feeding, toileting, personal hygiene and dressing skills.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-118 Definition and eligibility criteria for ~~((seriously))~~ emotionally/behaviorally disabled.** (1) Students who are ~~((seriously))~~ emotionally/behaviorally disabled are those who exhibit over a long period of time and to a marked degree, one or more of the following characteristics (~~, which adversely affects their educational performance~~):

(a) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(c) Inappropriate types of behavior or feelings under normal circumstances;

(d) A general pervasive mood of unhappiness or depression; or

(e) A tendency to develop physical symptoms or fears associated with personal or school problems.

(2) The term includes students who are schizophrenic.

(3) The term does not include students who are socially maladjusted, unless it is determined that they are also ~~((seriously))~~ emotionally/behaviorally disabled.

(4) All students considered for special education and related services as ~~((seriously))~~ emotionally/behaviorally disabled shall ~~((be evaluated according to the following))~~ have documentation for eligibility that:

(a) ~~((A current evaluation which))~~ Concludes that the student has ~~((a serious behavioral disability and which considers and describes the student's social and emotional behaviors and provides implications for educational planning, if any))~~ an emotional/behavioral disability which adversely affects educational performance and requires specially designed instruction.

(b) ~~((An evaluation which))~~ Describes behaviors ~~((which))~~ that distinguish between common disciplinary problem behaviors and ~~((serious behavioral disabilities))~~ an

emotional/behavioral disability. Common disciplinary problem behaviors (e.g., truancy, smoking, breaking school conduct rules) may exist in conjunction with ~~((serious behavioral disabilities))~~ an emotional/behavioral disability, but cannot be used as the sole criteria for recommending special education and related services. ~~((The evaluation shall also include:~~

~~((i))~~ ~~((c))~~ Includes a social or developmental history compiled directly from the parent(s) and/or records, when parents are not available.

~~((ii))~~ ~~((Current))~~ (d) Includes academic achievement ~~((evaluation))~~ assessment as measured by standardized tests appropriate to age level and administered individually.

~~((c))~~ ~~((If the academic evaluation is completed and there is documentation showing that the student's disability is evident in the school environment, the following evaluation reports may be substituted for the school district and other public agency's evaluation:~~

~~((d))~~ A current evaluation by a psychiatrist or a nonpublic school mental health professional who holds a graduate degree in a recognized mental health specialty that considers and describes the student's social and emotional behaviors, which concludes that the student has a serious behavioral disability, and provides implications for educational planning, if any. The multidisciplinary team shall consider these implications in planning and implementing the student's educational program.)

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-120 Definition and eligibility criteria for communication disordered.** A student shall be considered to have a communication disorder if there is ~~((present))~~ a documented communication disorder such as stuttering, voice disorder, language impairment, ~~((and))~~ or impaired articulation which adversely affects a student's educational performance ~~((The evaluation procedures and eligibility standards outlined in this section apply to those students whose only disabling condition is a communication disorder.~~

All students being considered for special education and related services as communication disordered shall be evaluated and determined eligible for special education and related services)) and requires specially designed instruction.

Eligibility shall be determined according to the following:

(1) A ~~((current))~~ hearing screening report;

(2) A ~~((current))~~ description of the level of educational development ~~((as))~~ provided by the classroom teacher, or where available, by standardized tests in those areas affected by the ~~((speech and/or))~~ communication problem(s) including discussion of the existing or potential impact of the problem(s) on educational performance; and

(3) ~~((A current evaluation))~~ An assessment of the level of speech and/or language development, as measured by standardized tests or professionally recognized procedures, scales, or checklists appropriate to the student's age level and mode of communication, individually administered, and which considers the student's sex, dialect norms, social-cultural environment, and behaviors. For children under the age of eligibility for entry to the first grade, the evaluation shall

include developmental acquisition of speech and language. Such measures shall result in one or more of the following findings that the student:

(a) Achieves a rating of moderate or severe on a standardized articulation test that yields a severity rating and/or misarticulates in comparison to developmental norms five or more unrelated phonemes each in two or more positions (initial, medial, or final) for children under the age of eligibility for entry to the first grade, three or more unrelated phonemes for students age six through age seven, or one or more for students over age seven, with consideration given to the student's speech intelligibility, physical ability, and/or therapy history.

(b) Has a delay in receptive and/or expressive language such that functioning is one year or more below chronological age for students up through age eight or functioning is two-thirds of chronological age or below for students over age eight.

(c) Has interruptions or dysfluencies in more than one speaking situation such as repetitions, prolongations, blockage in flow of speech, struggle, or avoidance behaviors which interfere with communication or are inconsistent with age or development.

(d) Has a deviation in voice quality, pitch, or loudness characterized by abusive vocal habits, or interference with communication, or is inconsistent with age or development, or demonstrates chronic hoarseness of duration of three weeks or more.

Whenever appropriate, a referral shall be made for medical and/or psychological and/or other ~~((evaluations shall be made))~~ assessments and the results considered in the ~~((evaluation))~~ determination of the student's ~~((suspected disabling condition))~~ eligibility for special education.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-122 Definition and eligibility criteria for orthopedically impaired.** Students who are orthopedically impaired are those who lack normal function of muscles, joints or bones due to congenital anomaly, disease or permanent injury, and such condition adversely affects their educational performance and requires specially designed instruction.

All students being considered for special education and related services as orthopedically impaired shall be ~~((evaluated and))~~ determined eligible for special education and related services according to the following:

(1) A ~~((current))~~ medical evaluation by a qualified medical practitioner which describes and confirms the student's health circumstances and which provides any medical implications for educational planning;

(2) ~~((Current))~~ An academic achievement ~~((evaluation))~~ assessment as measured by standardized tests appropriate to age level and administered individually; and

(3) A ~~((current))~~ physical therapy and/or occupational therapy ~~((evaluation))~~ assessment which considers and describes implications for therapy as a part of educational planning.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-124 Definition and eligibility criteria for health impaired.** Students with health impairments are those who have limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment due to chronic or acute health problems—such as ~~((students with serious congenital heart defect, other congenital syndrome(s), other disorders of the cardiorespiratory systems, disorders of the central nervous system including epilepsy or neurological impairment, or other profound health circumstances or degenerative condition(s) which))~~ a heart condition, rheumatic fever, nephritis, asthma, attention deficit disorder or attention deficit hyperactivity disorder, sickle cell anemia, hemophilia, lead poisoning, leukemia, or diabetes and adversely affects ~~((or with a high degree of professional certainty will affect))~~ their educational performance and requires specially designed instruction.

All students being considered for special education and related services as health impaired shall be ~~((evaluated and))~~ determined eligible for special education and related services according to the following:

(1) ~~((A current))~~ An evaluation by a qualified practitioner which describes and confirms the student's health circumstances and which provides any implications for educational planning; and

(2) ~~((Current))~~ An academic achievement ~~((evaluation))~~ assessment as measured by standardized tests appropriate to age level and administered individually.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-126 Specific learning disability—Definition.** (1) Specific learning disability is a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language ~~((which prevents the student from achieving commensurate with his or her age and ability levels in one or more of the areas listed in this subsection, when provided with learning experiences appropriate to the student's age and ability levels. Such disorder may include problems in visual and auditory perception and integration and may manifest itself in an impaired ability to listen, think, speak or communicate clearly, read with comprehension, write legibly and with meaning, spell, and to accurately perform mathematical calculations, including those involving reading. The presence of a specific learning disability is indicated by intellectual functioning above that specified in this chapter for eligibility as mentally retarded and by a severe discrepancy between the student's intellectual ability and academic achievement in one or more of the following areas:~~

- (1) Oral expression;
- (2) Listening comprehension;
- (3) Written expression;
- (4) Basic reading skill;
- (5) Reading comprehension;
- (6) Mathematics calculations; and

(7) Mathematics reasoning.

~~Such a performance deficit cannot be explained by visual, or hearing, or motor disabilities, mental retardation, behavioral disability, or environmental, cultural, or economic disadvantage.~~

~~A specific learning disability includes conditions described as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; when the student meets the eligibility criteria set forth in WAC 392-172-128, including documentation of severe discrepancy as required by WAC 392-172-132)) that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.~~

(2) Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

WAC 392-172-128 Specific learning disability—Evaluation procedures. ~~((Evaluation procedures and eligibility standards: All students (except those under the age of entry for first grade) considered for initial placement in special education as specific learning disabled shall be evaluated and determined eligible for special education and related services according to the following:~~

~~(1) A current evaluation of sufficient scope to rule out eligibility for any other disabling condition and to rule out environmental, cultural, or economic factors as an explanation for the specific academic problem;~~

~~(2) A current vision and hearing screening report shall be obtained and shall be of sufficient scope to rule out vision or hearing acuity as an explanation for the specific academic problem;~~

~~(3) A written record of observation of the student's learning behaviors in the general education program and the relationships of these behaviors to the specific academic problem shall be completed by a member of the evaluation team other than the student's general education teacher. In the case of a student of less than school age or out of school, a team member shall observe the student in an environment appropriate for a student of that age;~~

~~(4)) The group may determine that a student has a specific learning disability if:~~

~~(1) The student does not achieve commensurate with his or her age and ability levels in one or more of the areas listed in subsection (2) of this section, if provided with learning experiences appropriate for the student's age and ability levels;~~

~~(2) The group finds that a student has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:~~

~~(a) Oral expression.~~

~~(b) Listening comprehension.~~

~~(c) Written expression.~~

(d) Basic reading skill.

(e) Reading comprehension.

(f) Mathematics calculations.

(g) Mathematics reasoning;

(3) The group may not identify a student as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of:

(a) A visual, hearing, or motor impairment;

(b) Mental retardation;

(c) Emotional disturbance; or

(d) Environmental, cultural or economic disadvantage;

(4) At least one group member other than the student's regular teacher shall observe the student's academic performance in the regular classroom setting;

(5) In the case of a student of less than school age or out of school, a group member shall observe the student in an environment appropriate for a student of that age;

(6) Written documentation that the student has an academic achievement problem in the general education program shall be available. Examples of data used for documentation may include:

(a) Student performance on daily classroom work and/or criterion-referenced tests;

(b) Summary of past student performance;

(c) Group test results;

(d) Teacher observation and judgments; and

(e) Performance on ((student learning objectives)) state established standards;

~~((5)) (7) Documentation of the existence of a severe discrepancy between the student's intellectual ability and academic achievement in one or more of the seven areas specified in ((WAC 392-172-126)) this section shall be recorded. Such documentation shall conform to the requirements of WAC 392-172-132; and~~

~~((6)) (8) Tests used to assess the student's intellectual ability and academic achievement shall be:~~

~~((Current;~~

~~((b)) Reliable as demonstrated by a reliability coefficient of .85 or above;~~

~~((e)) (b) Normed on representative national samples;~~

~~((d)) (c) Selected and administered in accordance with the general requirements of WAC 392-172-108; and~~

~~((e)) (d) Individually administered and interpreted by a qualified person (defined in WAC 392-172-108) in accordance with the standardized procedures described in the test manuals.~~

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

WAC 392-172-132 Method for documenting severe discrepancy. (1) ~~((For students in grades one and above,))~~ A severe discrepancy shall be determined and documented from tables developed pursuant to WAC 392-172-130.

(2) For the purposes of applying the severe discrepancy tables, the following scores shall be used:

(a) A total or full scale intellectual ability score;

(b) An academic achievement test score which can be converted into a standard score with a mean of one hundred and a standard deviation of fifteen; ~~((and))~~

(c) A severe discrepancy between the student's intellectual ability and academic achievement in one or more of the seven areas provided for in WAC ((392-172-126)) 392-172-128 shall be determined by applying the regressed standard score discrepancy method to the obtained intellectual ability and achievement test scores using the tables referenced above. Where the evaluation results do not appear to accurately represent the student's intellectual ability and where the discrepancy between the student's intellectual ability and academic achievement does not initially appear to be severe upon application of the discrepancy tables, WAC 392-172-130, the ~~((multidisciplinary team))~~ student's parents and a group of qualified professionals shall apply professional judgment in order to determine the presence of a severe discrepancy. In this event, the ~~((multidisciplinary team))~~ student's parents and a group of qualified professionals shall document in a written narrative an explanation as to why the student has a severe discrepancy. The ~~((multidisciplinary team))~~ student's parents and a group of qualified professionals must provide supportive evidence, including the procedures used to determine that a severe discrepancy exists between the student's intellectual ability and academic achievement. If the prohibition against the use of specific tests or test results as provided in WAC 392-172-108~~((8))~~ shall preclude the use of any of the tests referenced above, the ~~((multidisciplinary team))~~ student's parents and a group of qualified professionals shall document ~~((in a written narrative))~~ the basis upon which the members decided that there exists a severe discrepancy ~~((between intellectual ability and achievement))~~; and

(d) For a student who has been retained, grade as well as age based norms on the achievement test should be applied. A severe discrepancy must exist using both age and grade based norms.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-134 Definition and eligibility criteria for mental retardation.** Students with mental retardation are those who demonstrate significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, ~~((which))~~ that adversely affects their educational performance and requires specially designed instruction.

~~((+))~~ All students being considered for special education and related services as mentally retarded shall be ~~((evaluated and))~~ determined eligible for special education and related services according to the following:

~~((a) A current evaluation))~~ (1) An assessment of intellectual functioning obtained from a standardized individual test designed to measure intellectual functioning, individually administered by a qualified psychologist ~~((and interpreted and attested to as to validity by a qualified psychologist))~~, which results in a full scale intelligence quotient two or more standard deviations below the mean on the respective measure; and

~~((b) A current evaluation))~~ (2) An assessment which considers and describes adaptive behavior as measured by standardized instrument(s), or professionally recognized

scales where there are no known standardized measures, which discusses any implications for educational planning; and

~~((e) Current))~~ (3) An academic achievement ~~((evaluation))~~ assessment as measured by standardized tests appropriate to age level and administered individually; and

~~((d))~~ (4) A developmental history compiled directly from the parent(s), or records, when parents are not available.

~~((2) Eligibility standards:~~

~~((a) Significantly subaverage general intellectual functioning, defined as a full scale intelligence quotient two or more standard deviations below the mean on the respective measure; and~~

~~((b) Concurrent deficits in adaptive behavior.))~~

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-136 Definition and eligibility criteria for multiple disabilities.** ~~((A student with multiple disabilities shall be considered eligible for special education services when there are present and documented two or more disabling conditions, each of which is so severe as to warrant a special program were that disabling condition to appear in isolation, and the combination of which causes such severe educational problems that the student requires intensive programming and cannot be accommodated in special education programs solely for one of the impairments. Students who are deaf/blind are not included in this disability category.))~~ (1) Multiple disabilities means concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

(2) A student with multiple disabilities shall be considered eligible for special education services when there are present and documented two or more disabling conditions.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-138 Definition and eligibility criteria for deafness.** Students who are deaf are those students who have a documented hearing impairment which is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, ~~((which))~~ that adversely affects educational performance and requires specially designed instruction.

(1) All students being considered for special education and related services as deaf shall be ~~((evaluated and))~~ determined eligible for special education and related services according to the following:

~~((+)) A current evaluation))~~ (a) An assessment by a qualified audiologist which describes and confirms that the hearing impairment is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification and which prevents the auditory channel from being the primary mode of learning speech and language and adversely affects educational performance;



~~((2) Current))~~ (b) An academic achievement ((evaluation)) assessment as measured by standardized tests appropriate to age level and administered individually; and

~~((3) A current evaluation))~~ (c) An assessment of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually.

(2) Each school district or other public agency shall ensure that the hearing aids worn by students who are deaf are functioning properly.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-140 Definition and eligibility criteria for hearing impairment.** ~~((Students with hearing impairment))~~ Hearing impaired students are those students who have a hearing impairment, whether permanent or fluctuating, ~~((which))~~ that adversely affects the student's educational performance but is not included under the definition of deafness.

(1) All students being considered for special education and related services as students with hearing impairment shall be ~~((evaluated and))~~ determined eligible for special education and related services according to the following:

~~((1) A current evaluation))~~ (a) An assessment by a qualified audiologist which describes and confirms that the student:

~~((a))~~ (i) Has an organic hearing loss in excess of 20 dB better ear average in the speech range (500, 1,000, 2,000 Hz), unaided; or

~~((b))~~ (ii) Has a history of fluctuating hearing loss which has interrupted the normal acquisition of speech and language and continues to be a part of educational planning.

~~((2) A current))~~ (b) An academic achievement ((evaluation)) assessment as measured by standardized tests appropriate to age level and administered individually.

~~((3) A current evaluation))~~ (c) An assessment of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually.

(2) Each school district or other public agency shall ensure that the hearing aids worn by students with hearing impairment are functioning properly.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-142 Definition and eligibility criteria for visually impaired/blindness.** Students with visual impairment~~((/))~~ including blindness ~~((are those students who))~~ have a visual impairment ~~((which))~~ that, even with correction, adversely affects the student's educational performance and requires specially designed instruction. The term includes both partial sight and blindness.

All students being considered for special education and related services ~~((with))~~ for visual impairment~~((/))~~ including blindness shall be ~~((evaluated and))~~ determined eligible for special education and related services according to the following:

(1) ~~((A current))~~ An evaluation by a qualified vision specialist or physician which describes and confirms that the student:

(a) Has visual acuity of 20/70 or less in the better eye with correction; or

(b) Has a field of vision which at its widest diameter subtends an angle of no greater than twenty degrees in the better eye with correction.

(2) ~~((Current))~~ An academic achievement ~~((evaluation))~~ assessment as measured by standardized tests appropriate to age level and administered individually.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-144 Definition and eligibility criteria for deaf/blindness.** Students who are deaf/blind are those whose hearing and vision impairments, in combination, cause such severe communication and other developmental and educational ~~((problems))~~ needs that they cannot be accommodated in special education programs solely for students ~~((who are deaf or blind))~~ with deafness or blindness. The impairments adversely affect a student's educational performance and require specially designed instruction.

All students being considered for special education and related services as deaf/~~((blind))~~ blindness shall be ~~((evaluated and))~~ determined eligible for special education and related services according to the following:

(1) ~~((A current evaluation))~~ An assessment by a qualified audiologist and evaluation by a vision specialist or physician which describes and confirms that the ~~((vision and))~~ hearing and vision impairments, in combination, cause such severe communication and other developmental and educational problems that the students cannot be accommodated in special education programs solely for students who are deaf or blind;

(2) ~~((Current))~~ An academic achievement ~~((evaluation))~~ assessment as measured by standardized tests appropriate to age level and administered individually; and

(3) ~~((A current evaluation))~~ An assessment of language development as measured by standardized tests or professionally recognized scales appropriate to age level and administered individually.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-146 Definition and eligibility criteria for autism.** "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a student's educational performance and requires specially designed instruction. If a student manifests characteristics of autism after age three, that student still could be diagnosed as having autism if the criteria in this section are satisfied.

~~((Students in this category have a range of intellectual abilities.))~~

Other characteristics often associated with autism are engagement in repetitive activities and stereotyped move-

ments, resistance to environmental change or change in daily routines and unusual responses to sensory experiences.

The term does not apply if a student's educational performance is adversely affected primarily because the student has ~~((a-serious))~~ an emotional/behavioral disability, as defined in this chapter. The category of autism includes students with pervasive developmental disorders if they meet eligibility criteria.

All students being considered for special education and related services under the category of autism shall be ~~((evaluated-and))~~ determined eligible for special education and related services according to the following:

(1) A developmental history which includes verbal and nonverbal communication, social interaction, play, motor and sensory development;

(2) An adaptive behavior ~~((evaluation))~~ assessment which includes:

(a) ~~((A-standardized-measure-of-adaptive-behavior;~~  
~~((b)-An-evaluation))~~ An assessment of the student's social skills, including interactions with peers, based on a classroom observation; and

~~((e)-An-evaluation))~~ (b) An assessment of the student's self-help and community skills based on classroom and/or home observations ~~((and/or-standardized-evaluation-methods))~~;

(3) A communication ~~((evaluation))~~ assessment which includes evaluations of:

(a) Receptive, expressive, and social communication skills;

(b) The possible contributions of the student's communication impairment to challenging behavior, and their implications for educational planning; and

(c) The potential need for augmentative communication methods; and

(4) An ~~((evaluation))~~ assessment of preacademic or academic strengths and weaknesses, preferred learning modalities, and present levels of functioning(~~(;~~

~~(5) A hearing and vision screening; and~~

~~(6) An evaluation of fine and gross motor skills)).~~

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-148 Definition and eligibility criteria for traumatic brain injury.** "Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability ~~((and/or))~~ psychosocial impairment or both that~~((;~~

~~((1))~~ adversely affects educational performance ~~((which results in the need for special education and related services))~~ requiring specially designed instruction. The term applies to open or closed head injuries resulting in impairments in one or more of the following areas such as: Cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative or brain injuries induced by birth trauma.

~~((2))~~ All students being considered for special education and related services under the category of traumatic brain injury shall be evaluated and determined eligible for special education and related services according to the following:

~~((a))~~ (1) A ~~((current))~~ medical evaluation by a qualified medical practitioner, which describes an acquired injury to the brain or a history of significant head trauma and which provides any medical implications for educational planning;

~~((b)-Current))~~ (2) An academic achievement ~~((evaluation))~~ assessment as measured by standardized tests appropriate to age level and administered individually;

~~((e)-Current-evaluation))~~ (3) An assessment of cognitive functioning, which may include intelligence, memory, attention, reasoning, abstract thought, judgment, problem-solving, and/or information-processing;

~~((d)-Current-evaluation))~~ (4) An assessment of language and communication skills;

~~((e)-Current-evaluation))~~ (5) An assessment of fine and gross motor skills.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-150 Independent educational evaluation.** ~~((1) The parent(s) of a student or the adult student referred for special education and related services or any special education student who is to be evaluated or reevaluated has the right to obtain an independent educational evaluation, subject to subsections (2), (3) and (4) of this section.~~

~~((2) When requested by the parent, each school district or other public agency shall provide information about where an independent educational evaluation may be obtained.~~

~~((3) For the purposes of this section:~~

~~((a) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the school district or other public agency responsible for the education of the student in question; and~~

~~((b) "Public expense" means that the school district or other public agency either pays for the full cost of the evaluation or assures that the evaluation is otherwise provided at no cost to the parent (or to the adult student).~~

~~((4) A parent or the adult student has the right to an independent educational evaluation at public expense when the parent or the adult student disagrees with the evaluation results obtained by the school district or other public agency, as follows:~~

~~((a) The parent(s) or the adult student should provide a written or verbal notice to the school district or other public agency superintendent or special education director which:~~

~~((i) Indicates that the parent or the adult student disagrees with the school district and other public agency's evaluation; and~~

~~((ii) Requests an independent educational evaluation at public expense;~~

~~((b) The school district or other public agency shall have the opportunity to initiate and conduct a hearing pursuant to WAC 392-172-350 et seq. to show that its evaluation is appropriate. If the school district or other public agency elects to initiate a hearing the school district or other public agency shall provide the parent(s) or the adult student written~~

notice of the decision to initiate a hearing no later than the fifteenth calendar day after the date of receipt of the parent's (or adult student's) notice of disagreement;

(e) If the final decision pursuant to WAC 392-172-350 et seq. is that the school district and other public agency's evaluation is appropriate, the parent or adult student still has the right to an independent educational evaluation, but not at public expense;

(d) If the district or other public agency elects not to hold a hearing or does not receive a favorable decision in the due process hearing, the independent evaluation shall be provided at public expense in accordance with the same criteria which the district or other public agency uses when it initiates an evaluation including, but not limited to, the location of the evaluation and the qualifications of the examiner; and

(e) The school district or other public agency will not deny payment for an independent educational evaluation solely because the parent did not provide prior notification of his or her intent to seek an independent educational evaluation at public expense.

(5) If the parent or adult student obtains an independent educational evaluation at private expense, the results of the evaluation:

(a) Shall be considered by the school district or other public agency and documented in any decision made with respect to the provision of special education and related services to the student; and

(b) May be presented as evidence at such hearings regarding that student as may be conducted pursuant to WAC 392-172-350 et seq.

(6) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation shall be at public expense.)) (1) The parents of a special education student or a student referred for special education have the right under this chapter to obtain an independent educational evaluation of the student subject to subsections (4) through (11) of this section.

(2) Each public agency shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in subsections (10) and (11) of this section.

(3) For the purposes of this section:

(a) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the student in question; and

(b) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with this chapter.

(4) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency.

(5) If a parent requests an independent educational evaluation at public expense, the public agency must, within fifteen days, either:

(a) Initiate a hearing under this chapter to show that its evaluation is appropriate; or

(b) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing under this chapter that the evaluation obtained by the parent did not meet agency criteria.

(6) If the public agency initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(7) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the public agency must either provide the independent educational evaluation at public expense or initiate a due process hearing to defend the public evaluation.

(8) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

(a) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the student; and

(b) May be presented as evidence at a hearing under this chapter regarding that student.

(9) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(10) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(11) Except for the criteria described in subsection (10) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

## NEW SECTION

**WAC 392-172-153 IEP team members.** The school district or other public agency shall ensure that the IEP team for each special education student includes:

(1) The parents of the student;

(2) At least one regular education teacher of the student (if the student is, or may be participating, in the regular education environment);

(3) At least one special education teacher of the student, or if appropriate, at least one special education provider of the student;

(4) A representative of the school district or public agency who:

(a) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of special education students;

(b) Is knowledgeable about the general curriculum; and

(c) Is knowledgeable about the availability of resources of the school district or other public agency.

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of

the team described in subsections (2) through (6) of this section.

(6) At the discretion of the parent or the school district or other public agency, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate;

(7) If appropriate, the student; and

(8) Transition services participants as described in WAC 392-172-166.

The determination of the knowledge or special expertise of any individual described in this section shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP team.

A public agency may designate another public agency member of the IEP team to also serve as the agency representative, if the criteria in this section are satisfied.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-156 Meetings.** ~~((+))~~ A meeting shall be held within thirty calendar days after the date ~~((upon which a))~~ student's evaluation is completed (and the student determined to be eligible) for the purpose of developing the student's individualized education program. Meetings consistent with this section shall be conducted by the school district or other public agency periodically but at least once a year for the purpose of reviewing and revising as necessary each student's individualized education program ~~((Meetings may be held more frequently. The school district or other public agency shall initiate and conduct the meeting and shall include the following participants:~~

~~(a) A representative of the school district or other public agency other than the student's teacher who is qualified to provide or supervise the provision of special education services, and authorized to commit district or other public agency resources;~~

~~(b) The student's general classroom teacher or special education teacher or therapist. Either the representative of the school district or other public agency or the teacher or therapist must be knowledgeable in the area of the student's disability;~~

~~(c) One or both of the parents (in the case of a nonadult student), subject to subsections (2) through (5) of this section;~~

~~(d) The student if he or she is an adult student, (and in the case of nonadult students, the student, if appropriate);~~

~~(e) The student, if transition services are being considered;~~

~~(f) A member of the student's multidisciplinary team or a person who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation;~~

~~(g) A person knowledgeable about the service options; and~~

~~(h) Other individuals at the discretion of the district or other public agency or the parent or the adult student, including representatives from the general education program in which the multidisciplinary team has recommended the delivery of services.~~

~~(2) Each school district or other public agency shall take steps to assure (in the case of nonadult students) that one or both parents of the special education student are present at each meeting or are afforded the opportunity to participate, including:~~

~~(a) Notifying the parent(s) of the meeting early enough to assure his or her participation; and~~

~~(b) Scheduling the meeting at a mutually agreed upon place and time.~~

~~(3) The notice to the parent(s) shall include the purpose, time, location of the meeting and who will be in attendance. If the purpose of the meeting is the consideration of transition services, the parent(s) will be notified that the student is invited.~~

~~(4) If a parent cannot attend, the district or other public agency shall use other methods to assure participation, including individual or conference telephone calls.~~

~~(5) If a parent does not attend (in the case of a nonadult student), a meeting may be conducted. In such a case the school district or other public agency shall make a record of its attempts to arrange a mutually agreed upon time and place. The record shall contain such information as:~~

~~(a) Detailed records of telephone calls made or attempted and the results of those calls;~~

~~(b) Copies of correspondence sent to the parents and any responses received; and~~

~~(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.~~

~~(6) The school district or other public agency shall take whatever action is necessary to assure that the parent or adult student understands the proceedings at a meeting, including arranging for an interpreter for parents (or adult students) who are deaf or whose native language is other than English.~~

~~(7) The district or other public agency shall document the parent(s) and other individualized education program participants' presence at the individualized education program meeting.~~

~~(8) General education teachers, in whose classes the student is enrolled, shall be invited to, and given the opportunity to participate in, the individualized education program meeting), to determine whether the annual goals for the student are being achieved. The individualized education program shall be revised, as appropriate, to address: any lack of expected progress toward the annual goals and in the general curriculum if appropriate; the results of any reevaluation conducted; information about the student provided to, or by, the parents; the student's anticipated needs; or other matters.~~

#### NEW SECTION

**WAC 392-172-15700 Parent and regular education teacher participation.** (1) Each school district or other public agency shall take steps to ensure (in the case of nonadult students) that one or both parents of the special education student are present at each meeting or are afforded the opportunity to participate, including:

(a) Notifying the parent(s) of the meeting early enough to ensure that they will have an opportunity to attend; and

(b) Scheduling the meeting at a mutually agreed upon place and time.

(2) The notice to the parent(s) shall include the purpose, time, location of the meeting and who will be in attendance and inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the student. If the purpose of the meeting is the consideration of transition needs or services, the provisions in WAC 392-172-164 apply.

(3) If neither parent can attend, the district or other public agency shall use other methods to ensure participation, including individual or conference telephone calls, or video conferencing.

(4) If neither parent can attend (in the case of a nonadult student), a meeting may be conducted without a parent if the district or other public agency is unable to convince the parents that they should attend. In such a case the school district or other public agency must have a record of its attempts to arrange a mutually agreed upon time and place. The record shall contain such information as:

(a) Detailed records of telephone calls made or attempted and the results of those calls;

(b) Copies of correspondence sent to the parents and any responses received; and

(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(5) The school district or other public agency shall take whatever action is necessary to ensure that the parent or adult student understands the proceedings at an IEP meeting, including arranging for an interpreter for parents (or adult students) who are deaf or whose native language is other than English.

(6) The regular education teacher of a special education student, as a member of the individualized education program team, must, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including assisting in:

(a) The determination of appropriate positive behavioral interventions and strategies for the student; and

(b) The determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with WAC 392-172-160 (1)(c).

#### NEW SECTION

**WAC 392-172-15705 Parent involvement in placement decisions.** (1) Each public agency shall ensure that the parents of each special education student are members of any team that makes decisions on the educational placement of their student.

(2) In implementing the requirements of this section, the public agency shall use procedures consistent with the procedures described in WAC 392-172-15700.

(3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their student, the public agency shall use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

(4) A placement decision may be made by a team without the involvement of the parents, if the public agency is unable to obtain the parents' participation in the decision. In

this case, the public agency must have a record of its attempt to ensure their involvement, including information that is consistent with the requirements of WAC 392-172-15700.

(5) The public agency shall make reasonable efforts to ensure that the parents understand, and are able to participate in, any team discussions relating to the educational placement of their student, consistent with WAC 392-172-15700.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-158 Individualized education program—Implementation.** (1) At the beginning of each school year, each public agency shall have in effect an individualized education program for every special education student (~~who is receiving special education from that agency~~) within its jurisdiction. An individualized education program must:

~~((1))~~ (a) Be in effect before special education and related services are provided to ~~((a))~~ an eligible student; and

~~((2))~~ (b) Be implemented as soon as possible following the meetings under this chapter.

~~(It is expected that the individualized education program of a special education student will be implemented immediately following the meetings under this chapter. An exception to this would be when the meetings occur during the summer or a vacation period, or where there are circumstances that require a short delay (e.g., working out transportation arrangements). However, there can be no undue delay in providing special education and related services to the student.)~~ (2) The student's IEP shall be accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation; and

(3) Each teacher and provider described above shall be informed of:

(a) His or her specific responsibilities related to implementing the student's IEP; and

(b) The specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

(3) Each teacher and provider described above shall be informed of:

(a) His or her specific responsibilities related to implementing the student's IEP; and

(b) The specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-160 Individualized education program.** (1) Each student's individualized education program ~~((shall be developed on the basis of the evaluation and parent input, where it is provided, and shall include:~~

~~(a) A statement of the student's present levels of educational performance;~~

~~(b) A statement of specific annual goals including short-term instructional objectives which are stated in terms that provide for measurement of progress, expected levels of performance, and the schedules for their accomplishments;~~

~~(c) A statement of the specific special education and related services to be provided to the student based upon the individual needs of the student, as determined through the evaluation process, and the extent to which the student will be able to participate in the general educational program;~~

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including physical education. If modifications to the general education program are necessary to ensure the child's participation in that program those modifications must be described. If the student is unable to participate in the general physical education program, a description of the specially designed physical education to be provided to the student shall be included;

(d) The individualized education program developed for a special education student shall also include a statement of the needed transition services as defined in WAC 392-172-060 including goals and objectives, based on a functional vocational evaluation and anticipated post-school outcome(s) beginning no later than age sixteen and annually thereafter (and when determined appropriate for an individual student, beginning in elementary school or sooner). The program should include, when appropriate, a statement of the inter-agency responsibilities or linkages (or both) before the student leaves the school setting. In the case where a participating agency fails to provide agreed upon services, the educational agency shall reconvene the individualized education program team, as soon as possible, to identify alternative strategies to meet transition objectives, and, if necessary, to revise the individualized education program, as long as the student is eligible for services;

(e) If the individualized education program team determines that services are not needed in one or more of the areas specified in WAC 392-172-060 (2)(a) through (f), the individualized education program must include a statement to that effect and the basis upon which the determination was made;

(f) The projected dates for the initiation of all special education and related services and the anticipated duration of each service including the number of school days, the number of hours per day, and the length of the school year over which such services shall be provided. In the event the individualized educational program is the first in the district or other public agency for such student and the multidisciplinary team has not made a determination as to the need for an extended school year for such student, the individualized educational program team shall make its recommendation on the length of the school year over which such services shall be provided prior to the conclusion of the regular school year;

(g) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being met; and

(h) Aversive therapy) shall include:

(a) A statement of the student's present levels of educational performance, including:

(i) How the student's disability affects the student's involvement and progress in the general curriculum (i.e., the same curriculum as for nondisabled students); or

(ii) For preschool students, as appropriate, how the disability affects the student's participation in appropriate activities.

(b) A statement of measurable annual goals, including benchmarks or short-term objectives, related to:

(i) Meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general curriculum (i.e., the same curriculum

as for nondisabled students), or for preschool students, as appropriate, to participate in appropriate activities; and

(ii) Meeting each of the student's other educational needs that result from the student's disability;

(c) A statement of the special education and related services and supplementary aids and services to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student consistent with WAC 392-172-045 (4)(a)(iii):

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved and progress in the general curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other special education students and nondisabled students in the activities described in this section.

(d) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section.

(e) A statement of any individual modifications in the administration of state or district-wide assessments of student achievement that are needed in order for the student to participate in the assessment. If the individualized education program team determines that the student will not participate in a particular state or district-wide assessment of student achievement (or part of an assessment), a statement of:

(i) Why that assessment is not appropriate for the student; and

(ii) How the student will be assessed.

(f) The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications.

(g) A statement of:

(i) How the student's progress toward the annual goals described in this section will be measured; and

(ii) How the student's parents will be regularly informed (through such means as periodic report cards), at least as often as parents are informed of their nondisabled student's progress of:

(A) Their student's progress toward the annual goals; and

(B) The extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.

(h) For each special education student beginning at age fourteen (or younger, if determined appropriate by the IEP team), and updated annually, a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced placement courses or a vocational education program).

(i) For each student beginning at age sixteen (or younger, if determined appropriate by the IEP team), a statement of needed transition services for the student, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

(j) If a participating agency, other than the public agency, fails to provide the transition services described in the IEP, the public agency shall reconvene the IEP team to

identify alternative strategies to meet the transition objectives for the student set out in the IEP.

(k) Beginning at least one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority; and

(l) Aversive interventions, if applicable, consistent with WAC 392-172-388 through 392-172-398. The individualized education program shall describe the positive interventions attempted by the district or other public agency prior to the use of aversive ((therapy)) interventions.

(2) Nothing in this chapter relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to special education students who meet the eligibility criteria of that agency.

(3) The school district or other public agency shall provide the parent or the adult student a copy of the individualized education program at no cost.

(4) Each public agency must:

(a) Provide special education and related services to a special education student in accordance with an individualized education program; and

(b) Make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the IEP. ((However,))

(i) Part B of the Individuals with Disabilities Education Act does not require that any agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and benchmarks or objectives.

(ii) Nothing in this section limits a parent's right to ask for revisions of the student's IEP or to invoke due process procedures if the parent feels that the efforts required in this subsection are not being made.

## NEW SECTION

**WAC 392-172-161 Development, review, and revision of individualized education program-consideration of special factors.** (1) In developing, reviewing and revising each student's individualized education program, the team shall consider:

(a) The strengths of the student and the concerns of the parents for enhancing the education of their student; and

(b) The results of the initial or most recent evaluation of the student; and

(c) As appropriate, the results of the student's performance on any general state or district-wide assessment programs.

(2) The individualized education program team also shall:

(a) In the case of a student whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior;

(b) In the case of a student with limited English proficiency, consider the language needs of the student as these

needs relate to the student's individualized education program;

(c) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;

(d) Consider the communication needs of the student, and in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and

(e) Consider whether the student requires assistive technology devices and services.

(3) If, in considering the special factors described above, the IEP team determines that a student needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the student to receive a free appropriate public education, the IEP team must include a statement to that effect in the student's individualized education program.

(4) Nothing in this section requires the team to include information under one component of a student's individualized education program that is already contained under another component of the student's individualized education program.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-162 Physical education required.** (1) Physical education services, specially designed if necessary, must be made available to every special education student receiving FAPE.

(2) Each special education student ((is)) must be afforded the opportunity to participate in the general physical education program available to students who are not disabled unless:

(a) The student is enrolled full time in a separate facility; or

(b) The student needs specially designed physical education, as prescribed in the student's individualized education program.

((2)) (3) If specially designed physical education is prescribed in a student's individualized education program, the school district or other public agency shall ensure that the public agency responsible for the education of that student provides the service directly, or makes arrangements for it to be provided through other public or private programs.

((3)) (4) The school district or other public agency shall ensure that any special education student who is enrolled in a separate facility will be provided with appropriate physical education services.

**NEW SECTION****WAC 392-172-163 Extended school year services.** (1)

Each public agency shall ensure that extended school year services are available as necessary to provide FAPE, consistent with this section.

(2) Extended school year services must be provided only if a student's IEP team determines, on an individual basis, in accordance with this chapter that the services are necessary for the provision of FAPE to the student.

(3) In implementing the requirements of this section, a public agency may not:

(a) Limit extended school year services to particular categories of disability; or

(b) Unilaterally limit the type, amount, or duration of those services.

(4) As used in this section, the term extended school year services means special education and related services that:

(a) Are provided to a student with a disability:

(i) Beyond the normal school year of the public agency;

(ii) In accordance with the student's IEP; and

(iii) At no cost to the parents of the student; and

(b) Meet the standards of the state for provision of special education and related services.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-164 Parent notice of individualized education program meeting—Transition needs or services.** If a purpose of the individualized education program meeting is the consideration of transition services needs or services for a student, the notice required under WAC ((392-172-156)) 392-172-15700 of the individualized education program meeting must also:

(1) ~~((Indicate this purpose;~~

~~(2) Indicate that the district or other public agency will invite the student; and~~

~~(3) Identify any other agency that will be invited to send a representative.)) For a special education student beginning at age fourteen, or younger, if appropriate:~~

~~(a) Indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the student; and~~

~~(b) Indicate that the agency will invite the student.~~

~~(2) For a special education student beginning at age sixteen, or younger, if appropriate:~~

~~(a) Indicate that a purpose of the meeting is the consideration of needed transition services for the student;~~

~~(b) Indicate that the agency will invite the student; and~~

~~(c) Identify any other agency that will be invited to send a representative.~~

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)**WAC 392-172-166 Transition services participants.**

~~((If a purpose of the individualized education program meeting is the consideration of transition services for a student, the district or other public agency shall also invite:~~

~~The student; and~~

~~A representative of any other agency that is likely to be responsible for providing or paying for transition services.~~

~~If the student does not attend, the district or other public agency shall take other steps to ensure that the student's preferences, and aptitudes and interests are considered; and~~

~~If an agency invited to send a representative to an individualized education program meeting does not do so, the district or other public agency shall take other steps to obtain the participation of the other agency in the planning of any transition services.)) (1) The public agency shall invite a special education student of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of:~~

~~(a) The student's transition services needs;~~

~~(b) The needed transition services for the student; or~~

~~(c) Both.~~

~~(2) If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered.~~

~~(3) In implementing the requirements of this section, the public agency also shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.~~

~~(4) If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services.~~

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-170 Initial service delivery—Parental consent for initial placement—Notice required.** (1) The written consent of the parent(s) or adult student shall be requested and obtained before initial special education and related services are provided.

(2) Each school district or other public agency shall provide written notice of initial special education services to be provided to the student, or of the school district or other public agency and other public agency's inability or refusal to make special education and related services available, at the initial meeting or within ten calendar days after the initial meeting provided for in WAC 392-172-156. The notice shall comply with the notice requirements of WAC ((392-172-306)) 392-172-302. ~~((Students admitted to state residential schools shall be enrolled in an educational program within ten school days of admission.))~~

(3) The student's proposed special education and related services shall commence when ~~((either)):~~

(a) Written consent has been given by the parent(s) or the adult student; or

(b) The refusal of a student's parent(s) or adult student to grant consent has been overridden by the school district or other public agency pursuant to a hearing (or appeal) conducted in accordance with WAC 392-172-350 et seq., or mediated, if appropriate.



**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/1/95)

**WAC 392-172-172 Least restrictive environment.** ~~((The state shall ensure that))~~ Each public agency ~~((establishes))~~ shall establish and implement ~~((s))~~ procedures which meet the least restrictive environment requirements of this chapter ~~((, and that the various alternative service delivery options included under this chapter are available to the extent necessary to implement the individualized education program for each student eligible for and in need of special education))~~. The provision of services to each special education student, including students in public or private institutions or other care facilities, shall be ~~((in his or her least restrictive environment as follows:~~

(1) Educational setting—Each special education student shall be provided services:

(a) ~~In the general educational environment with students who are not disabled to the maximum extent appropriate to his or her needs. Special classes, separate schooling or other removal from the general education environment cannot occur unless it is demonstrated by the school district or other public agency that the nature or severity of the student's disability is such that his or her education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily; and~~

(b) ~~In the school which he or she would attend if not receiving special education and related services, unless his or her individualized education program requires some other arrangement. If some other arrangement is required, the student shall be provided services in the appropriate educational program that is as close to the student's home as possible.~~

~~((2)) provided:~~

(1) To the maximum extent appropriate in the regular education environment with students who are nondisabled; and

(2) Special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(3) Nonacademic settings—Each special education student shall be provided nonacademic and extracurricular services and activities conducted by the school district or other public agency with students who are not disabled to the maximum extent appropriate to the needs of the student. Nonacademic and extracurricular services and activities may also include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the district or other public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the district or other public agency and assistance in making outside employment available. Each school district or public agency shall take steps to ensure that its special education students have available to them the variety of educational programs and services available to nonspecial education students in the area served by the school district or

public agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/1/95)

**WAC 392-172-174 Continuum of alternative service delivery options.** ~~((A continuum of alternative service delivery options shall be made available as necessary to meet the needs of special education students including special education and related services in: General classes, special classes, special schools, home, hospitals, institutions, and instruction in other settings, and shall provide for supplementary services in conjunction with the general education classroom.~~

~~Specially designed instruction shall be provided as follows:~~

(1) ~~Provided directly by certificated special education personnel or by general certificated teachers and/or classified instructional staff who are under the direct supervision of the general certificated teacher. For the purposes of this section, direct supervision includes observation of classified instructional staff at least weekly, during the time they are providing direct services to the student. Direct supervision of classified instructional staff providing related services, including services at off-site locations, shall occur at least monthly.~~

(2) ~~Provided directly by certificated special education personnel or by classified instructional staff who are under the direct supervision of the certificated special education personnel including classified instructional staff who are performing individual or small group (six students or less) instructional and/or training activities pursuant to specific directives provided by the certificated special education personnel.~~

~~If the specially designed instruction is not delivered directly by certified special education personnel, it must be designed, monitored, and evaluated by certificated special education personnel pursuant to a written plan which shall include at least a monthly evaluation of student progress toward specific written individualized education program objectives.)~~ (1) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of special education students for special education and related services.

(2) The continuum required in this section must:

(a) Include the alternative placements listed in the definition of special education under this chapter such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions; and

(b) Make provision for supplementary services such as resource room or itinerant instruction to be provided in conjunction with regular class placement.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/1/95)

**WAC 392-172-176 Transition to preschool program.** ~~((Each local school district or other public agency shall develop policies and procedures for the transition of children participating in the early intervention program under Part H of the Individuals with Disabilities Education Act who are~~

PROPOSED

eligible for participation in preschool programs under Part B of the Individuals with Disabilities Education Act.

~~If the child will participate in the school district and other public agency's preschool program under Part B of Individuals with Disabilities Education Act at age three, an individual education program consistent with this chapter must be developed and implemented by the child's third birthday. The district or other public agency must provide the family with information on the eligibility and evaluation requirements under Part B of the Individuals with Disabilities Education Act, including the parent's and school district and other public agency's rights regarding procedural safeguards.~~

~~Each school district and other public agency's policies and procedures must include procedures for:~~

~~(1) Notifying the agency in which the child is being served, and the family of the need for transitional planning;~~

~~(2) Describing how the families will be included in the transitional plans;~~

~~(3) Convening, with the approval of the family, a transition conference with the agency, family, and district or other public agency, at least ninety days before the child is eligible for the preschool program under Part B of Individuals with Disabilities Education Act for the purpose of reviewing a child's program options for the remainder of the school year, and establishing a transition plan.)~~ Each school district or other public agency shall have policies and procedures for transition to preschool programs to ensure that:

(1) Students participating in early intervention programs assisted under Part C of the IDEA, and who will participate in preschool programs assisted under Part B of the IDEA, experience a smooth and effective transition to those preschool programs in a manner consistent with the Part C requirements.

(2) Each school district will participate in transition planning conferences arranged by the designated lead agency for Part C in the state. A transition planning conference will be convened for each student who may be eligible for preschool services at least ninety days (or at the discretion of all parties up to six months) prior to the student's third birthday.

(3) By the third birthday of a student described in subsection (1) of this section, an IEP has been developed and is being implemented for the student consistent with WAC 392-172-030(1).

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-180 Procedures for establishing educational settings.** (1) The educational setting (placement) for each special education student, including a preschool student, shall be determined at least annually at a meeting conducted pursuant to WAC 392-172-156.

(2) The selection of the appropriate placement for each special education student shall be based upon:

(a) The student's individualized education program;

(b) The least restrictive environment requirements of WAC 392-172-172;

(c) The placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals; and

(d) A consideration of any potential harmful effect on the student or on the quality of services which he or she needs.

~~(3) ((In interpreting data gathered through the evaluation process in this chapter and in making placement decisions, each public agency shall:~~

~~(a) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, parental input, physical condition, social and cultural background, and adaptive behavior;~~

~~(b) Ensure that information obtained from all of these sources is documented and carefully considered; and~~

~~(c) Ensure that the placement decision is made in conformity with the least restrictive environment rules in this chapter.)~~ Unless the IEP of a special education student requires some other arrangement, the student shall be educated in the school that he or she would attend if nondisabled. The placement shall be as close as possible to the student's home.

(4) The decision on the educational setting shall be made by a group of persons, including the parents, and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options.

(5) A special education student is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-182 Reevaluation—Requirement.** ~~((Each special education student shall be reevaluated by the multidisciplinary team in accordance with the evaluation procedures specified in WAC 392-172-100 through 392-172-152, as follows:~~

~~(1) At a minimum, once every three years or more frequently if conditions warrant.~~

~~(2) Upon request of the student's parent or adult student, teacher, or individualized education program team.)~~ Each public agency shall ensure:

(1) That the IEP of each special education student is reviewed in accordance with this chapter; and

(2) That a reevaluation of each student in accordance with this chapter is conducted if conditions warrant a reevaluation, or if the student's parent or teacher requests a reevaluation, but at least once every three years.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-184 Reevaluation—Notice requirement.** A reasonable time prior to conducting the reevaluation, the district or other public agency shall provide written notice to parents or adult student consistent with WAC 392-172-302. ~~((The notice shall include the procedural safeguard requirements provided in WAC 392-172-306. The parents or adult student have the right to submit to the multidisciplinary team any information they deem important to the reevaluation.)~~

**NEW SECTION**

**WAC 392-172-185 Reevaluation—Consent requirement.** (1) Informed parental consent for reevaluation shall be obtained consistent with the provisions in WAC 392-172-304.

(2) Parental consent is not required before reviewing existing data as part of a reevaluation, or administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

(3) Informed parental consent need not be obtained for reevaluation if the school district or other public agency can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parent has failed to respond.

(4) To meet the reasonable measures requirement in this section, the public agency must use procedures consistent with those in WAC 392-172-15700 (3) and (4).

(5) A reevaluation shall be conducted consistent with the timelines in WAC 392-172-104(2) and WAC 392-172-182(2).

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-186 Reevaluation—((Purposes)) Procedures.** ~~((The purposes of reevaluation are to determine the following:~~

~~(1) If the student is appropriately identified as disabled and in need of special education and related services; and~~

~~(2) If the program designed for the student is appropriate to meet the student's unique needs;)) (1) As part of any reevaluation, a group that includes the individuals described in WAC 392-172-153, and other qualified professionals, as appropriate, shall review existing evaluation data on the student, including:~~

~~(a) Evaluations and information provided by the parents of the student;~~

~~(b) Current classroom-based assessment and observations; and~~

~~(c) Observations by teachers and related services providers.~~

~~(2) Based on the above review and input from the student's parents, identify what additional data, if any, are needed to determine:~~

~~(a) Whether the student continues to be a special education student and continues to need special education and related services;~~

~~(b) The present levels of performance and educational needs of the student; and~~

~~(c) If any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the student's individualized education program and to participate, as appropriate, in the general curriculum.~~

~~(3) The group described in subsection (1) of this section may conduct its review without a meeting.~~

~~(4) A public agency must evaluate a special education student in accordance with this chapter before determining that the student is no longer a special education student.~~

~~(5) The evaluation described in subsection (4) of this section is not required before the termination of a student's eligibility under Part B of the IDEA due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE under state law.~~

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-188 Reevaluation ((general procedures))—Purposes.** ~~((The multidisciplinary team)) A group that includes the individuals required under WAC 392-172-153 and other qualified professionals, as appropriate, shall determine if additional evaluation procedures are necessary to confirm the decisions to be made in WAC 392-172-186((: In making the determination, members of the multidisciplinary team shall be governed by the generally recognized professional practice standards of their respective disciplines. The multidisciplinary team shall document in a written narrative the basis for the determination including any relevant data or evaluation procedures utilized)), consistent with WAC 392-172-107 through 392-172-109.~~

~~If no additional data are needed to determine whether the student continues to be a student with a disability, the school district or other public agency shall notify the student's parents:~~

- ~~(1) Of that determination and the reasons for it; and~~
- ~~(2) Of the right of the parents to request an assessment to determine, for purposes of services under this chapter, the continuing eligibility of the student.~~

~~The school district or other public agency is not required to conduct the assessment unless requested to do so by the parents.~~

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-190 Reevaluation—Notice of results.** Within ten calendar days of the completion of the reevaluation, the district or other public agency superintendent or designee shall notify the parent or adult student, pursuant to WAC ~~((392-172-306)) 392-172-302~~, of one or more of the following decisions:

~~(1) ((That)) Whether the student ((is)) continues to be eligible and in need of special education;~~

~~(2) ((That the individualized education program designed for the student is appropriate to the student's unique needs)) The present levels of performance and educational needs of the student; and~~

~~(3) Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general curriculum.~~

~~When a determination is made that the individualized education program is ((inappropriate)) no longer appropriate, an individualized education program team meeting shall be convened in accordance with WAC ~~((392-172-156 through 392-172-168. When special education and related services are to be discontinued, notice shall be given the parent(s) pur-~~~~

suant to WAC 392-172-302)) 392-172-153 through 392-172-166.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-200 Staff qualifications.** All employees of a school district or other public agency funded in whole or part with state or federal special education excess cost funds shall be qualified as follows (~~((except as provided for in subsection (4) of this section))~~):

(1) All employees shall hold such credentials, certificates or permits as are now or hereafter required by the state board of education for the particular position of employment and shall meet such supplemental standards as may be established by the school district or other public agency of employment. Supplemental standards established by a district or other public agency may exceed, but not be less than, those established by this section.

Pursuant to WAC 180-82-110, after August 31, 2000, a teacher who has completed twenty-four quarter hours (sixteen semester credit hours) of the required special education course work shall be eligible for a pre-endorsement waiver 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. Application for the special education or early childhood special education preendorsement waiver shall be made to special education section at the office of superintendent of public instruction.

(2) In addition to the requirement of subsection (1) of this section, all teachers shall possess "substantial professional training" and support personnel shall meet standards established under the educational staff associate rules of the state board of education, as now or hereafter amended. A teacher of special education must hold a valid general teaching certificate for the appropriate level(s). The school district or other public agency is responsible for determining whether or not the teacher has adequate preparation to provide special education services. "Substantial professional training" as used in this section shall mean and be evidenced by either an appropriate special education endorsement or recommended placement upon the teaching certificate of an employee issued by the superintendent of public instruction. If the teacher does not have a certificate endorsed in special education, the teacher of special education must hold a valid general teaching certificate for the appropriate level(s), and the school district or other public agency is responsible for determining whether or not the teacher has adequate preparation in special education to teach such classes. Course work focused on the essential areas of study and credits required for endorsement by the state board of education in the area of special education are required.

(3) After August 31, 2000, employees with early childhood special education endorsement shall be assigned only to programs that serve students birth through age eight. Preference for early childhood special education assignment must always be given first to employees having early childhood special education endorsement.

(4) Certified and/or classified staff assigned to provide instruction in Braille, the use of Braille, or the production of Braille must demonstrate competency with grade two standard literary Braille code by successful completion of a test approved by the state board of education pursuant to WAC 180-82-130.

~~(5) Classified staff shall present evidence of ((either formal and/or adequate in-service training or successful experience in working with special education students. The office of superintendent of public instruction, through the special education comprehensive system of personnel development, shall identify the minimum competencies classified staff must possess and develop in-service training strategies to meet staff needs)) skills and knowledge necessary to meet the needs of students with disabilities.~~

~~((4)) (6) General education classroom personnel providing specially designed instruction pursuant to a properly formulated individual education program may be paid from state special education excess cost funds if the district has in place a cost allocation plan which meets the requirements established by the superintendent of public instruction.~~

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-202 Emergency—Temporary out-of-endorsement assignment.** In order to temporarily assign a nonspecial education endorsed classroom teacher to a special education position, the district or other public agency must ~~((empty with))~~ keep written documentation on the following:

(1) The district or other public agency must make one or more of the following factual determinations:

(a) The district or other public agency was unable to recruit a teacher with the proper endorsement who was qualified for the position(-);

(b) The need for a teacher with such an endorsement could not have been reasonably anticipated and the recruitment of such a classroom teacher at the time of assignment was not reasonably practicable(-); and/or

(c) The reassignment of another teacher within the district or other public agency with the appropriate endorsement to such assignment would be unreasonably disruptive to the current assignments of other classroom teachers or would have an adverse effect on the educational program of the students assigned such other classroom teachers.

(2) ~~((The teacher assigned to the special education position must meet the following requirements:~~

~~(a) The teacher so assigned must have at least two full school years of classroom teaching experience and must not have been placed on probation pursuant to RCW 28A.405.100 during the last two school years.~~

~~(b) The teacher so assigned must have completed six semester hours or nine quarter hours of course work which are applicable to an endorsement in the out-of-endorsement grade level or subject area.~~

(3) ~~The district or other public agency shall comply with the following condition:~~

~~Prior to the assignment, or as soon as reasonably practicable thereafter, but in no event beyond twenty school days~~

after the commencement of the assignment, a designated representative of the district or other public agency and the classroom teacher so assigned shall mutually develop a written plan which provides necessary assistance to the teacher so assigned and which provides for a reasonable amount of planning and study time associated specifically with the assignment.

(4) The district or other public agency shall submit to the office of superintendent of public instruction as part of its annual report required by WAC 180-16-195, a list which indicates all such assignments. Such list shall include:

(a) The name and certification number of each teacher so assigned, the grade levels or subject areas and the number of such periods taught by such teacher, and the dates upon which such assignment(s) commenced and concluded.

(b) The reason for each such assignment.

(c) The reason why the particular teacher was selected for the out-of-endorsement grade level or subject area.

(d) A dated copy of each plan of assistance required pursuant to subsection (3) of this section. Such copy shall not contain any personal information the disclosure of which would violate the named teacher's right to privacy pursuant to RCW 42.17.310 (1)(b).

(5) The district or other public agency adopts a resolution for each proposed out-of-endorsement assignment which states that the district or other public agency has made good faith efforts to comply with the provision(s) for which it is requesting a waiver. Such resolution must recite the actions that the school district or other public agency has taken to comply. Upon adoption and transmission of such resolution to the superintendent of public instruction, the district or other public agency shall be authorized to assign each such classroom teacher affected to the proposed out-of-endorsement assignment.

(6)) Upon determination by a school district that one or more of these criteria can be documented, and the district determines that a teacher has the competencies to be an effective special education teacher but does not have endorsement in special education, the district can so assign the teacher to special education. The teacher so assigned must have completed, prior to August 31, 2000, six semester hours or nine quarter hours of course work, after September 1, 2000, sixteen semester hours or twenty-four quarter hours of course work, which are applicable to an endorsement in the out-of-endorsement grade level or subject area. The teacher assigned to special education must meet the following requirements. If teachers are so assigned the following shall apply:

(a) A designated representative of the district and any such teacher 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 teacher.

(3) An emergency out-of-endorsement assignment by the district or other public agency is only valid for one school year.

**((Service Delivery Settings))**

**Home/Hospital Instruction**

### School District Placements for Provision of FAPE

#### NEW SECTION

**WAC 392-172-219 Applicability.** The provisions of WAC 392-172-220 through 392-172-226 apply only to special education students who are, or have been placed, in, or referred to a nonpublic or public school agency by a school district as a means of providing special education and related services.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-220 Contractual services.** ~~((+))~~ School districts ~~((, severally or jointly,))~~ shall be authorized to:

~~((a))~~ (1) Enter into interdistrict agreements with another school district(s) ~~((pursuant to RCW 28A.335.160, 28A.225.250, 28A.225.260, and chapter 392-135 WAC; and~~

~~((b))~~ or other public agencies; or

(2) Contract with nonpublic and public ~~((school))~~ agencies for special education and related services for special education students if the school district establishes that it cannot provide an appropriate education for the special education student within the district ~~((or another school district.~~

(2) In the case of a cooperative delivery of services by a school district to a special education student at a center for the furtherance of research and training in disabling conditions as established pursuant to RCW 28B.20.410 through 28B.20.414, as now or hereafter amended, or other such centers as may be established at other public institutions of higher education, as defined in RCW 28B.10.016, the school districts and other public agencies shall establish that the parent(s) or adult student has:

(a) Given written approval for delivery of services to the student at such center despite the existence of an appropriate education for the student within the district or another school district; and

(b) Has agreed that such delivery of services would equal or substantially equal the services available in the school district).

PROPOSED

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-222 Approval of nonpublic (~~and public school~~) agencies.** (1) A school district or other public agency shall (~~neither provide a student with services in a nonpublic or public school agency nor award a contract to a nonpublic or public school agency until the nonpublic or public school agency has been approved by the state board of education. Approval of such agencies shall be made in accordance with the following procedures:~~

~~(1))~~ obtain the approval of the state board of education before awarding a contract to a nonpublic agency to provide special education services;

(2) The school district or other public agency shall (~~establish that all requirements imposed by this chapter for contracting with a nonpublic or public school agency can be met and shall forward the nonpublic or public school agency's application to the superintendent of public instruction or designee;~~

~~(2))~~ notify the office of superintendent of public instruction, in writing, of their intent to enroll a student and/or contract with a nonpublic agency;

(3) The office of superintendent of public instruction shall provide the agency named with the procedures/application for nonpublic agency approval, which shall consist of description of agency and services provided, assurances, personnel record, and fire and health inspection forms;

(4) Upon review of the completed application and an on-site visitation the superintendent of public instruction or designee shall recommend approval or disapproval of the agency to the state board of education; and

~~(3))~~ (5) The superintendent of public instruction or designee shall (~~notify the requesting school district or other public agency and nonpublic or public school agency of approval or disapproval~~) make information regarding currently approved nonpublic agencies available to all school districts.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-224 School district or other public agency responsibility when contracting for the delivery of services in a public agency or approved nonpublic (~~or public school~~) agency.** Any school district or other public agency contracting with (~~an~~) a public or approved nonpublic (~~or public school~~) agency for special education and (~~or~~) related services (~~on behalf of a special education student~~) shall:

(1) Initiate and conduct a meeting with appropriate personnel and the student's parent(s) to develop the student's individualized education program. The district or other public agency shall assure that a representative of the approved nonpublic or public (~~school~~) agency attends the meeting or in some other way assure participation (~~by the nonpublic school agency~~). Meetings to review or revise the student's individualized education program after the student has been placed shall be initiated and conducted by the approved nonpublic or public (~~school~~) agency at the discretion of the

school district or other public agency. The district or other public agency shall assure that both the parent(s) or the adult student and the public agency or approved nonpublic (~~school~~) agency are represented in any decision concerning the student's individualized education program and agree to proposed changes in the program before those changes are implemented. The responsibility for compliance with this section lies with the school district or other public agency.

(2) Develop a written contract which shall include, but not (~~necessarily~~) be limited to, the following elements:

(a) Names of the parties involved;

(b) The name(s) of the special education student(s) (~~with disabilities~~) for whom the contract is drawn;

(c) Location and setting of the services to be provided;

(d) Description of services provided, program administration and supervision;

(e) Designation of (~~coordinator of the services to be provided by the school district or other public agency and the contractor;~~

~~(f) Assurance of compliance with staff certification requirements;~~

~~(g) Periodic student report requirements;~~

~~(h) Annual program monitoring procedures and requirements;~~

~~(i) Starting date and duration of contract;~~

~~(j) Program day and description of student's program;~~

~~(k))~~ responsible parties;

~~(l) Charges and reimbursement—Billing and payment procedures;~~

~~((h))~~ (g) Total contract cost;

~~((m) Contract review;~~

~~(n) Disposition of materials and equipment upon termination;~~

~~(o))~~ (h) School district and other public agency's responsibility for compliance with due process, individualized education program, and yearly review and determination of placement requirements; and

~~((p) Contractor's policies and procedures covering:~~

~~(i) Nondiscrimination;~~

~~(ii) Care of student(s) in emergencies;~~

~~(iii) Fire drills;~~

~~(iv) Personnel policies;~~

~~(v) Staff duties; and~~

~~(vi) Board of directors' duties and functions;~~

~~(q))~~ (i) Other contractual elements that may be necessary to assure compliance with state and federal rules(~~and~~

~~(r) Signatures of authorized school and contractor officials).~~

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-226 Residential educational services—Methods of payment.** (1) If the delivery of services in a public or private residential educational program is necessary to provide special education and related services to a special education student, the program, including nonmedical care and room and board, must be at no cost to the parents of the student. (~~Nothing in this chapter relieves an insurer or similar third party (public or private) from an otherwise valid~~

~~obligation to provide or to pay for services provided to a special education student. Nothing in this chapter relieves any participating agency of the responsibility to provide or pay for any service that the agency would otherwise provide to any special education student who meets the eligibility criteria of that agency.)~~ Nothing in this chapter limits the responsibility of agencies other than educational agencies for providing or paying some or all of the costs of a free appropriate public education to special education students in the state.

(2) Nothing in this chapter relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to special education students.

(3) Consistent with the IEP provisions in this chapter, the office of the superintendent of public instruction shall ensure that there is no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education and related services to the student is being determined.

~~((Private Schools Provisions))~~

~~((Private School Students Placed by Parents or Others))~~

### Parental Placements for Provision of FAPE

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

#### **WAC 392-172-230 Placement of students by parents.**

If a special education student has a free appropriate public education available and the parents choose to place the student in a private school or facility, the public agency is not required by this chapter to pay for the student's education, including special education and related services, at the private school or facility. However, the public agency shall ~~((make services available to the student as provided in))~~ include that student in the population whose needs are addressed consistent with WAC 392-172-232 through 392-172-248.

Disagreements between a parent and a public agency regarding the availability of a program appropriate for the student, and the question of financial responsibility, are subject to the due process procedures of this chapter. Disagreements may also be resolved through the mediation process described in this chapter.

#### NEW SECTION

**WAC 392-172-231 Reimbursement for private school placement.** (1) If the parents of a special education student, who previously received special education and related services under the authority of a school district or other public agency, enroll the student in a private preschool, elementary or secondary school without the consent of or referral by a school district or other public agency, a court or a hearing officer may require a school district or other public agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that a school district or other public agency had not made a free appropriate public education available to the student in a timely manner prior to

that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the state standards that apply to education provided by a school district or other public agency.

(2) The cost of reimbursement may be reduced or denied if:

(a) At the most recent individualized education program meeting that the parents attended prior to removal of the student from the public school, the parents did not inform the team that they were rejecting the placement proposed by a school district or other public agency to provide a free appropriate public education to their student, including stating their concerns and their intent to enroll their student in a private school at public expense; or

(b) At least ten business days (including any holidays that occur on a business day) prior to the removal of the student from the public school, the parents did not give written notice to a school district or other public agency of the information described in (a) of this subsection; or

(c) If, prior to the parents' removal of the student from the public school, a school district or other public agency informed the parents, through the notice requirements described in this chapter, of its intent to evaluate the student (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the student available for the evaluation; or

(d) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(3) Notwithstanding the notice requirement in subsection (2)(a) and (b) of this section, the cost of reimbursement may not be reduced or denied for failure to provide the notice if:

(a) The parent is illiterate and cannot write in English;

(b) Compliance with the notice requirements of this section would likely result in physical or serious emotional harm to the student;

(c) The school district or other public agency prevented the parent from providing the notice; or

(d) The parent had not received notice of the requirement to notify a school district or other public agency of the information required in subsection (2)(a) and (b) of this section.

#### **Students Enrolled in Private Schools by Parent**

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-232 Definition—**"Private school special education student(s) ~~((with disabilities))~~." For the purpose of WAC ~~((392-172-234))~~ 392-172-23300 through 392-172-248 "private school special education student(s) ~~((with disabilities))~~" means resident special education students enrolled in private schools or agencies and whose enrollment is not the result of a contractual arrangement between a public school district or other public agency and the private school or agency.

PROPOSED

NEW SECTION

**WAC 392-172-23300 Child count.** (1) Each school district or other public agency shall:

(a) Consult with representatives of private school students in deciding how to conduct the annual count of the number of private school special education students; and

(b) Ensure that the count is conducted on December 1 of each year.

(2) The child count must be used to determine the amount that the school district or other public agency must spend on providing special education and related services to private school special education students in the next subsequent fiscal year.

(3) Expenditures for childfind activities described in WAC 392-172-100 may not be considered in determining whether the school district or other public agency has met the requirements of WAC 392-172-23305.

(4) State and local educational agencies are not prohibited from providing services to private school special education students in excess of those required by this section consistent with state law or local policy.

NEW SECTION

**WAC 392-172-23305 Expenditures.** Each school district or public agency shall spend a proportionate amount of federal funds on providing special education and related services to private school special education students as follows:

(1) For students aged three through twenty-one, an amount that is the same proportion of the school district's or other public agency's total subgrant under Part B of the Individuals with Disabilities Education Act as the number of private school special education students aged three through twenty-one residing in its jurisdiction is to the total number of special education students in its jurisdiction aged three through twenty-one; and

(2) For students aged three through five, an amount that is the same proportion of the school district's or other public agency's total subgrant under the school district's or other agency's preschool grant under section 619 of the Individuals with Disabilities Education Act as the number of private school special education students aged three through five residing in its jurisdiction is to the total number of special education students in its jurisdiction aged three through five.

NEW SECTION

**WAC 392-172-23600 Determination (of needs, numbers of students and types) of services.** (1) No private school special education student has an individual right to receive some or all of the special education and related services that the student would receive if enrolled in a public school. Decisions about the services that will be provided to private school special education students under WAC 392-172-232 through 392-172-248 must be made in accordance with this section.

(2) Each school district or other public agency shall consult, in a timely and meaningful way, with appropriate representatives of private school special education students in light

of the funding under WAC 392-172-23305, the number of private school special education students, the needs of private school special education students, and their location to decide:

(a) Which students will receive services;

(b) What services will be provided;

(c) How and where the services will be provided; and

(d) How the services provided will be evaluated.

(3) Each school district or other public agency shall give appropriate representatives of private school special education students a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements in this section.

(4) The consultation required by this section shall occur before the school district or other public agency makes any decision that affects the opportunities of private school special education students to participate in services under WAC 392-172-232 through 392-172-248.

(5) The school district or other public agency shall make the final decision with respect to the services to be provided to eligible private school students.

(6) If a special education student is enrolled in a religious or other private school and will receive special education or related services from a school district or other public agency, the district or agency shall:

(a) Initiate and conduct meetings to develop, review, and revise a services plan for the student, in accordance with WAC 392-172-23605; and

(b) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the school district or other public agency shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

NEW SECTION

**WAC 392-172-23605 Services provided.** (1) The services provided to private school special education students must be provided by personnel meeting the same standards as personnel providing services in the public schools.

(2) Private school special education students may receive a different amount of services than special education students in public schools.

(3) No private school special education student is entitled to any service or to any amount of a service the student would receive if enrolled in a public school.

(4) Each private school special education student who has been designated to receive services under WAC 392-172-23600 must have a services plan that describes the specific special education and related services that the school district or other public agency will provide to the student in light of the services that the district or agency has determined, through the process described in WAC 392-172-23300 and 392-172-23600, it will make available to private school special education students.

(5) The services plan must, to the extent appropriate:

(a) Meet the requirements of WAC 392-172-160 with respect to the services provided;

(b) Be developed, reviewed, and revised consistent with WAC 392-172-156, 392-172-158, and 392-172-161.



**NEW SECTION**

**WAC 392-172-23610 Location of services and transportation.** (1) Services provided to private school special education students may be provided on-site at a student's private school, consistent with WAC 392-172-238.

(2) If necessary for the student to benefit from or participate in the services provided under this section, a private school special education student must be provided transportation:

(a) From the student's school or the student's home to a site other than the private school; and

(b) From the service site to the private school, or to the student's home.

(3) School districts or other public agencies are not required to provide transportation from the student's home to the private school.

(4) The cost of the transportation described in subsection (2) of this section may be included in calculating whether the school district or other public agency has met the requirement of WAC 392-172-23305.

**NEW SECTION**

**WAC 392-172-239 Complaints.** (1) The procedures under WAC 392-172-350 et seq., do not apply to complaints that a school district or other public agency has failed to meet the requirements of WAC 392-172-232 through 392-172-248, including the provision of services indicated on the student's individualized education program.

(2) The procedures under WAC 392-172-350 et seq. do apply to complaints that a school district or other public agency has failed to meet the requirements under childfind, including evaluation and reevaluation procedures under this chapter.

(3) Complaints that the state, or a school district or other public agency, has failed to meet the requirements of WAC 392-172-232 through 392-172-248 may be filed under the procedures in WAC 392-172-324 et seq.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-240 Personnel in private schools and agencies.** (1) School district or other public agency personnel may be made available to nonsectarian private schools and agencies only to the extent necessary to provide services required by the special education student if those services are not normally provided by the private school.

(2) Each school district or other public agency providing services to students enrolled in nonsectarian private schools or agencies shall maintain continuing administrative control and direction over those services.

(3) Services to private school special education students shall not include the payment of salaries of teachers or other employees of private schools or agencies, except for services performed outside regular hours of the school day and under public supervision and control.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-242 Equipment, property and supplies—Construction.** (1) Equipment and supplies used with special education students in a private school or agency may be placed on nonsectarian private school or agency premises for the period of time necessary for the program, but title to and administrative control over all equipment property and supplies must be retained and exercised by the school district or other public agency.

(2) Records shall be kept of equipment and supplies and an accounting made of the equipment and supplies which shall assure that the equipment is used solely for the purposes of the program. Equipment and supplies placed in private schools must be able to be removed from the private school without remodeling the private school facility.

(3) The equipment and supplies shall be removed from the private school or agency if necessary to avoid its being used for other purposes or if it is no longer needed for the purposes of the program or project.

(4) Funds shall not be used for repairs, minor remodeling, or to construct facilities for private schools or agencies.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-246 Funds and property not to benefit private schools.** Public funds provided and property derived from those funds shall not benefit any private school or agency.

A school district shall use funds provided under Part B of the IDEA to meet the special education and related services needs of special education students enrolled in private schools, but not for:

(1) The needs of a private school; or

(2) The general needs of the students enrolled in the private school.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-300 General responsibility of public agencies.** ~~((The state shall ensure that))~~ Each school district ~~((or))~~ and public agency ~~((establishes and))~~ shall establish, implement~~((s))~~ and maintain procedural safeguards that meet the requirements of 34 CFR ~~((300.500-300.515))~~ 300.500-300.529.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-302 When notice must be given.** Written notice in accordance with WAC 392-172-306 shall be given by a school district or other public agency to the parent(s) of a student (or to the adult student) a reasonable time before the school district or other public agency:

(1) Proposes to initiate or change:

(a) The identification, evaluation, or delivery of educational services to the student;

PROPOSED

(b) The individualized education program, including annual goals and short term instructional objectives or benchmarks or the provision of special education and related services to the student pursuant to this chapter; or

(2) Refuses to initiate or change:

(a) The identification, evaluation, or delivery of special education and related services to the student; or

(b) The individualized education program or the provision of special education and related services to the student pursuant to this chapter.

(3) If the notice required under this section relates to an action proposed by a district or other public agency that also requires parental consent under WAC 392-172-185 and 392-172-304, notice may be given at the same time parental consent is being requested.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-304 Parent consent.** (1) Informed parental consent must be obtained in writing (or denial of consent overridden by a due process hearing or mediated if appropriate) before:

~~((+))~~ (a) Conducting an initial evaluation or reevaluation consistent with WAC 392-172-185; and

~~((2))~~ (b) Providing initial special education and related services to a special education student.

~~((A school district or other public agency shall not require written parental consent as a condition for receiving any other benefit, service, or activity to the parent or to the student.))~~ (2) Consent for initial evaluation may not be construed as consent for initial placement described in this section.

(3) Parental consent is not required before:

(a) Reviewing existing data as part of an evaluation or reevaluation; or

(b) Administering a test or other evaluation that is administered to all students unless, before administration of that test or evaluation, consent is required of parents of all students.

(4) A public agency may not use a parent's refusal to consent to one service or activity under this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this chapter.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-306 Contents of notice.** (1) The notice required by WAC 392-172-302 shall include:

~~(a) ((A full explanation of all of the procedural safeguards available to the parent or the adult student that are set forth in 34 CFR 300.500, 300.502 through 300.515, and 300.562 through 300.569, including the availability of mediation as a dispute resolution process;))~~ A statement that the parents of a special education student have protection under the procedural safeguards of Part B of the Individuals with Disabilities Education Act and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

(b) A description of the action proposed or refused by the school district or other public agency, an explanation of why the district or other public agency proposes or refuses to take the action, and a description of any other options the district or other public agency considered and the reasons why those options were rejected;

(c) A description of each evaluation procedure, test, record, or report the district or other public agency used as a basis for the proposal or refusal; ~~((and))~~

(d) A description of any other factors which are relevant to the school district and other public agency's proposal or refusal;

(e) A description of any evaluation procedures the school district or other public agency proposes to conduct; and

(f) Sources for parents to contact to obtain assistance in understanding the procedural safeguards provision of Part B of the Individuals with Disabilities Education Act.

(2) The notice shall be:

(a) Written in language understandable to the general public; and

(b) Provided in the native language of the parent or adult student or other mode of communication used by the parent or adult student, unless it is clearly not feasible to do so.

(3) If the native language or other mode of communication of the parent or adult student is not a written language, the district or other public agency shall take steps to assure that:

(a) The notice is translated orally or by other means to the parent or adult student in his or her native language or other mode of communication;

(b) The parent or adult student understands the content of the notice; and

(c) There is written evidence that the requirements in (a) and (b) of this subsection have been met.

#### **NEW SECTION**

**WAC 392-172-307 Procedural safeguards notice.** (1) A copy of the procedural safeguards available to the parents of a special education student shall be given to the parents, at a minimum:

(a) Upon initial referral for evaluation;

(b) Upon each notification of an individualized education program meeting;

(c) Upon reevaluation of the student;

(d) Upon receipt of a request for due process; and

(e) Upon notification of a parent that a school district or other public agency intends to take disciplinary action that constitutes a change of placement.

(2) The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under Part B of the Individuals with Disabilities Education Act. Available procedural safeguards include:

(a) Independent educational evaluation;

(b) Prior written notice;

(c) Parental consent;

(d) Access to educational records;

(e) Opportunity to present complaints to initiate due process hearings;

- (f) The student's placement during pendency of due process proceedings;
  - (g) Procedures for students who are subject to placement in an interim alternative educational setting;
  - (h) Requirements for unilateral placement by parents of students in private schools at public expense;
  - (i) Mediation;
  - (j) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
  - (k) Civil actions;
  - (l) Attorneys' fees; and
  - (m) State complaint procedures, including a description of how to file a complaint and the timelines under those procedures.
- (3) The notice shall meet the requirements of WAC 392-172-306 (2) and (3).

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-308 Surrogate parents.** (1) Each school district or other public agency providing a special education program to a nonadult special education student shall assure that the rights of the nonadult student are protected when:

- (a) No parent (as defined in WAC 392-172-035(5)) can be identified;
- (b) The school district or other public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or
- (c) The student is a ward of the state. A student is a ward of the state if (i) parental rights have been terminated and no guardian has been appointed or (ii) the student is found dependent under RCW 13.34 and is not placed with the parent or with relatives.

(2) (~~Duty of school district or other public agency.~~) The duty of a school district or other public agency under this section includes the assignment of a person to act as a surrogate for the parents. This duty includes the establishment of a method:

- (a) For determining whether a nonadult student needs a surrogate parent; and
  - (b) For assigning a surrogate parent to the student.
- (3) Criteria for selection of surrogates. Each school district or other public agency shall assure that a person selected as a surrogate:
- (a) Has no interest that conflicts with the interests of the student he or she represents; and
  - (b) Has knowledge and skills that assure adequate representation of the student.
- (4) Nonemployee requirement—Compensation:
- (a) A person assigned as a surrogate may not be an employee of the office of superintendent of public instruction, a school district and/or other agency which is involved in the education or care of the student; and
  - (b) A person who otherwise qualifies as a surrogate parent pursuant to this section is not an "employee" of the school district (~~and~~) or other agency solely because he or she is paid by the school district and/or agency to serve as a surrogate parent.

(5) Responsibilities. A surrogate parent may represent the student in all matters relating to:

- (a) The identification, evaluation, and the delivery of educational services to the student; and
- (b) The provision of free special education and related services to the student.

(6) A public agency may select as a surrogate a person who is an employee of a nonpublic agency that only provides noneducational care for the student and who meets the standards in subsection (3) of this section.

(7) A foster parent may be appointed as a surrogate parent if he or she meets the qualifications of subsection (3) of this section and is willing to make educational decisions on behalf of the student.

#### NEW SECTION

**WAC 392-172-309 Transfer of parental rights at age of majority.** (1) Consistent with RCW 25.28.010 when a special education student reaches the age of eighteen, unless declared incapacitated as to person under chapter 11.88 RCW, the following shall occur:

- (a) A school district or other public agency shall provide any notice required under the chapter to both the student and the parents; and
  - (b) All other rights accorded to parents under Part B of the Individuals with Disabilities Education Act transfer to the student.
- (2) All rights accorded to parents under Part B of the Individuals with Disabilities Education Act transfer to students at the age of majority who are incarcerated in an adult or juvenile, state, or local correctional institution.
- (3) Whenever a school district or other public agency transfers rights under this section, they shall notify the individual and the parents of the transfer of rights.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-310 Mediation—Purpose.** The purpose of mediation is to offer both the parent and the school district or other public agency an optional alternative to a formal due process hearing. Mediation requires the consent and agreement of both parties. Mediation cannot be used to deny or delay access by a parent to a due process hearing under this chapter, or to deny any other rights afforded under Part B of the Individuals with Disabilities Education Act. Mediation is used to resolve disagreements concerning the identification, evaluation, delivery of educational services or provision of a free appropriate public education to a special education student. Mediation may be terminated by either party at any time during the process. Mediation shall be available whenever a hearing is requested under this chapter.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-312 Mediation—Definition.** Mediation is a dispute resolution process in which an impartial mediator assists both parties in reaching a mutually acceptable agree-

ment on the educational needs of a special education student. The ~~((primary))~~ participants in the mediation process are the parent(s), school district or other public agency representative(s), and mediator. The process is voluntary, confidential, and informal. It is a collaborative process, conducted in a nonadversarial manner. Mediation services ~~((may be))~~ are provided by the office of superintendent of public instruction at no cost to either party, including the costs of meetings described in WAC 392-172-317. The office of superintendent of public instruction will ~~((attempt to))~~ provide mediation services for individuals whose primary language is not English unless clearly not feasible to do so. Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

#### NEW SECTION

**WAC 392-172-313 Mediators—Qualified and impartial.** (1) Mediation is conducted by qualified and impartial mediators who are trained in effective mediation techniques.

(2) The office of superintendent of public instruction shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(3) An individual who serves as a mediator:

(a) May not be an employee of:

(i) Any school district or any state agency described under WAC 392-172-035(5); or

(ii) A state education agency that is providing direct services to a student who is the subject of the mediation process; and

(b) Shall not have a personal or professional conflict of interest.

(4) A person who otherwise qualifies as a mediator is not an employee of a school district or other public agency solely because he or she is paid by the agency to serve as a mediator.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-314 Request for mediation services.**

(1) To access the system of mediation established by the office of superintendent of public instruction, a request for mediation services may be made in writing or verbally to administrative agents for the office of superintendent of public instruction located statewide. Written confirmation of the request shall be provided to both parties by an intake coordinator and a mediator shall be assigned to the case.

(2) If a mediator is not selected on a random (e.g., a rotation) basis from the list described in WAC 392-172-313, both parties must be involved in selecting the mediator and agree with the selection of the individual who will mediate.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-316 Written mediation agreement—Mediation discussions.** (1) Agreements reached through the

mediation process shall be documented in writing and signed by both parties. Solutions to the issue(s) raised through the mediation process shall not be in conflict with state and federal laws or regulations. ~~((Both))~~ The parties shall be given a copy of the written mediation agreement. ~~((Negotiations, mediation positions, etc., disclosed in a mediation shall not be used as evidence in a due process hearing or other administrative review unless one party to the mediation violates the agreement.))~~ A copy shall also be filed by the mediator with the office of superintendent of public instruction in mediations provided by that agency.

(2) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.

#### NEW SECTION

**WAC 392-172-317 Meeting to encourage mediation.**

(1) A school district or other public agency may establish procedures to require parents who elect not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party:

(a) Who is under contract with a parent training and information center or community parent resource center in the state established under the Individuals with Disabilities Education Act or an appropriate alternative dispute resolution entity; and

(b) Who would explain the benefits of the mediation process, and encourage the parents to use the process.

(2) A school district or other public agency may not deny or delay a parent's right to a due process hearing under this chapter if the parent fails to participate in the meeting described in this section.

(3) A school district or other public agency shall submit its procedures for implementing this section to the office of superintendent of public instruction for review and approval, including projected costs for carrying out the process.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-324 Definition—Complaint.** As used in this chapter, the term "complaint" means an allegation, by the complainant, that the state, a local school district or other public agency, an educational service district ~~((or other public agency)),~~ or other subgrantee receiving federal funds (or receiving state funds to carry out a federal requirement), including private schools and facilities where students are placed on a contractual basis, has violated a federal statute or regulation or a state regulation that applies to a federal program covered under this chapter.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-328 Informing citizens about complaint procedures.** The superintendent of public instruction

shall inform parents and other interested individuals about the citizen complaint procedures in this chapter. Specific actions to be taken by the superintendent of public instruction include:

(1) ~~((Disseminating copies of the state's procedures to parent, advocacy, and professional organizations;))~~ Widely disseminating copies of the state's procedures to parents and other interested individuals, including protection and advocacy agencies, parent training and information centers, independent living centers, and other appropriate entities;

(2) Conducting in-service training sessions on the complaint process through educational service districts; and

(3) Including information about the system in state-wide conferences.

#### NEW SECTION

**WAC 392-172-329 Remedies for denial of appropriate services.** In resolving a complaint in which it has found a failure to provide appropriate services, the office of the superintendent of public instruction pursuant to its general supervisory authority under Part B of the IDEA, must address:

(1) How to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the student; and

(2) Appropriate future provision of services for all special education students.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-330 Right to register a complaint.** Any individual ~~((entity))~~ or organization, including an organization or individual from another state, may register a signed written complaint. ~~((If a parent or adult student has also filed a request for a due process special education hearing pursuant to WAC 392-172-350, regarding the same issues, a citizen complaint by such person regarding noncompliance shall be held in abeyance until the hearing has been concluded.))~~

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-332 Contents of complaint.** A complaint filed under this chapter shall include:

(1) A statement that an educational entity, the state, a local school district or other public agency, an educational service district, or other subgrantee has violated one or more requirements of federal statutes or regulations or state regulations that apply to ~~((a federal program))~~ Part B of the IDEA;

(2) The facts on which the statement is based;

(3) The name and address of the complainant; and

(4) In the case of a complaint alleging a violation by an educational entity other than the state and filed directly with the superintendent of public instruction, the name and address of the ~~((allegedly offending))~~ entity.

(5) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is

received unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

#### **WAC 392-172-334 Procedure for filing a complaint.**

The procedure for filing a complaint shall be as follows:

(1) A complaint alleging a violation by a local school district or other public agency, an educational service district, or other subgrantee shall be filed directly with the superintendent of public instruction.

(2) The superintendent of public instruction, upon receipt of a signed written complaint against a local school district or other public agency, an educational service district, or other subgrantee, shall refer the complaint to the ~~((allegedly offending))~~ entity for action pursuant to this chapter.

(3) Receipt of a complaint by the superintendent of public instruction activates a time ~~((time))~~ limit not to exceed sixty calendar days unless an extension of the time limit is approved by the superintendent of public instruction on the basis of exceptional circumstances relative to a particular complaint.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-338 Investigation of and response to complaints against a school district or other public agency, educational service district, or other subgrantee.** Investigation of and response to a complaint shall be as follows:

(1) Upon receipt of a properly filed complaint with the superintendent of public instruction and referred by the superintendent of public instruction to the ~~((allegedly offending))~~ entity, the employee(s) designated pursuant to WAC 392-172-336 shall investigate the alleged violations.

(2) Upon completion of the investigation by the ~~((allegedly offending))~~ entity, the designated employee(s) shall provide the responsible official of the entity with a written report, including applicable documentation, of the results of the investigation. Said officials shall respond in writing to the superintendent of public instruction no later than twenty calendar days after the date of receipt by the entity of such complaint.

(3) The response to the superintendent of public instruction shall clearly state either:

(a) That the entity denies the allegations contained in the complaint and the basis for such denial; or

(b) Proposes reasonable corrective action(s) deemed necessary to correct the violation.

(4) Upon request, the superintendent of public instruction shall provide the complainant a copy of the entity's response to the complaint.

(5) The superintendent of public instruction will provide the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

PROPOSED

~~((5))~~ (6) Within thirty calendar days, and upon review of all relevant information including, dependent upon necessity, information obtained through an independent on-site investigation by the superintendent of public instruction, the superintendent of public instruction will make an independent determination as to whether the public agency is violating a requirement of Part B of the Individuals with Disabilities Education Act or of this chapter.

~~((6))~~ (7) Consistent with the provisions of WAC 392-172-320 through 392-172-346, issue a written decision to the complainant that addresses each allegation in the complaint including findings of fact and conclusions and the reasons for the state's final decision, and clearly states either:

(a) That the complaint is without merit, the allegations are denied, and the basis for such denial; or

(b) The reasonable corrective measures deemed necessary to correct any violation. Any such corrective measures deemed necessary shall be instituted as soon as possible but in no event later than thirty calendar days following the date of the response to the complainant.

~~((7))~~ (8) When appropriate, technical assistance, negotiations, and corrective action(s) are to be instituted no later than ten days following notice of written decision by the superintendent of public instruction.

~~((8))~~ (9) If compliance by a local school district or other public agency, educational service district, or other subgrantee is not achieved pursuant to subsection ~~((6))~~ (7) of this section, the superintendent of public instruction shall initiate fund withholding, fund recovery, or any other sanction deemed appropriate.

#### NEW SECTION

**WAC 392-172-348 Complaints and due process hearings.** (1) If a written complaint is received that is also the subject of a due process hearing under this chapter or contains multiple issues, of which one or more are part of that hearing, the office of the superintendent of public instruction must set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in this section.

(2) If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties:

(a) The hearing decision is binding; and

(b) The office of the superintendent of public instruction must inform the complainant to that effect.

(3) A complaint alleging a public agency's failure to implement a due process decision must be resolved by the office of the superintendent of public instruction.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-350 Right to initiate—Purposes.** (1) Hearings conducted in accordance with WAC 392-172-350 through 392-172-360 may be initiated in the following cases for the purposes stated:

(a) The parent(s) of a student (or an adult student) or a school district or other public agency may initiate a hearing to challenge or to show (as the case may be) the appropriateness of a proposal by the school district or other public agency to initiate or change:

(i) The identification of the student;

(ii) The evaluation of the student;

(iii) The delivery of educational services to the student;

or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(b) The parent(s) of a student (or an adult student) or a school district or other public agency may initiate a hearing to challenge or to show (as the case may be) the appropriateness of the school district and other public agency's refusal of the parent(s) (or adult student's) request to initiate or change:

(i) The identification of the student;

(ii) The evaluation of the student;

(iii) The delivery of educational services to the student;

or

(iv) The provision of special education and related services to the student pursuant to this chapter;

(c) A school district or other public agency may initiate a hearing to show that its evaluation of a student is appropriate if the student's parent(s) or adult student disagrees with the evaluation results and requests an independent educational evaluation.

(2) A request by a student's parent(s) or adult student for a hearing pursuant to this section shall:

(a) Be in writing and specify the district or other public agency;

(b) Be mailed or provided directly to the Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504; and

(c) Explain the concerns of the parent(s) or adult student in general or specific terms, as described in WAC 392-172-351.

(3) A request by a school district or other public agency for a hearing pursuant to this section shall:

(a) Be in writing;

(b) Be mailed or provided directly to Office of Superintendent of Public Instruction, Office of Legal Services, Old Capitol Building, Olympia, Washington 98504. A copy of such request, including required attachments shall be transmitted to the student's parent(s) or adult student;

(c) Have attached to such request a copy of the notice to parent(s) or adult student as required by WAC 392-172-302. If the hearing request by the district or other public agency is in response to a request for an independent educational evaluation pursuant to WAC 392-172-150, the school district and other public agency's written request for a hearing also shall have attached a copy of the written notice to the district or other public agency required by WAC 392-172-150(2).

(4) A notice of a hearing requested by a student's parent(s) or adult student or initiated by a school district or other public agency pursuant to this section shall be provided by the hearing officer and shall include, but not necessarily be limited to:

(a) The date, time, and place of the hearing;

(b) The issues to be addressed at the hearing to the extent the issues have been identified at the time of the notice;

(c) The rights, procedures, and other matters set forth in WAC 392-172-352 through 392-172-364; and

(d) The right of the parent(s) or adult student to seek an independent evaluation at public expense pursuant to WAC 392-172-150.

(5) The forty-five day time line for completing the hearing process shall begin on the day the superintendent receives the written request for a due process hearing.

(6) When a hearing is initiated under this section, the school district or other public agency shall inform the parents of the availability of mediation described in WAC 392-172-310 et seq.

#### NEW SECTION

**WAC 392-172-351 Parent notice.** (1) The school district or other public agency must have procedures that require the parent of a special education student or the attorney representing the student to provide notice (which must remain confidential) to the school district or other public agency in a request for a hearing. The notice must include:

(a) The name of the student;

(b) The address of the residence of the student;

(c) The name of the school the student is attending;

(d) A description of the nature of the problem of the student relating to the proposed initiation or change, including facts relating to the problem; and

(e) A proposed resolution of the problem to the extent known and available to the parents at the time.

(2) The office of superintendent of public instruction shall develop a model notice form to assist parents in filing a request for a due process hearing that includes the information required above.

(3) A school district or other public agency may not deny or delay a parent's right to a due process hearing for failure to provide the notice required in this section.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-352 Hearing officers—Selection and expenses of—Parent assistance.** (1) If a hearing is initiated pursuant to WAC 392-172-350:

(a) The hearing shall be conducted by and at the expense of the superintendent of public instruction.

(b) The superintendent of public instruction shall provide for a court reporter's stenographic record of all testimony and other oral hearing proceedings at the expense of the superintendent of public instruction: A court reporter's stenographic record need not be transcribed for any purpose except as provided or required in WAC 392-172-354 (1)((e)) (g) and (h).

(c) The superintendent of public instruction shall inform the parent(s) or adult student of any free or low-cost legal and other relevant services available in the area if:

(i) The parent or adult student requests the information;

or

(ii) The school district or other public agency or the parent or adult student initiates a hearing.

(d) The hearing shall be conducted by a qualified person selected and appointed by the chief administrative law judge in the office of administrative hearings pursuant to chapter 10-08 WAC and shall be a person who:

(i) Is not an employee of a public agency which is involved in the education or care of the student; and

(ii) Does not have a personal or professional interest which would conflict with his or her objectivity in the hearing.

(2) A person who otherwise qualifies to conduct a hearing under this section is not an employee of the public agency solely because he or she is paid by the agency to serve as a hearing officer.

(3) The hearing shall be conducted in accordance with the provisions of WAC 392-101-005 unless modified by this chapter.

(4) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-354 Hearing rights.** (1) Any party to a hearing initiated pursuant to WAC 392-172-350 has the right to:

(a) Be accompanied and advised by persons with special knowledge or training with respect to the problems of special education students;

(b) Be advised and/or represented by an attorney;

(c) Present evidence, including the opinion(s) of qualified experts, confront, cross-examine, and compel the attendance of witnesses;

(d) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing, or two business days if the hearing is expedited pursuant to WAC 392-172-38415(2);

(e) At least five business days (or two business days if the hearing is expedited pursuant to WAC 392-172-38415(2)) prior to a hearing conducted pursuant to this section, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing;

(f) A hearing officer may bar any party that fails to comply with (e) of this subsection from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party;

(g) Obtain a written, or at the option of the parents, electronic verbatim record of the hearing at no cost to any party to a hearing ~~(-In the event of an appeal to a court of law by the school district or other public agency, the district or other public agency shall bear the cost of transcribing the record for appeal purposes and shall make a copy available to the other party at a cost, if any, which is no greater than the school district and other public agency's cost of copying the original));~~ and

PROPOSED

~~((f))~~ (h) Obtain written, or at the option of the parents, electronic findings of fact, decisions, conclusions of law and judgments. The state, after deleting any personally identifiable information, shall:

(i) Transmit those findings and decisions to the state advisory panel established under this chapter; and

(ii) Make those findings and decisions available to the public.

(2) Parents who are a party to a hearing have the right to have the student who is the subject of the hearing present.

(3) Parents (or adult students) who are a party to a hearing have the right to open the hearing to the public.

(4) The record of the hearing and the findings of fact and decisions described in this section shall be provided at no cost to parents.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-356 Time line for hearing officer's decision—Time and place of hearing.** (1) Not later than forty-five days after the date of receipt of a request for a hearing pursuant to WAC 392-172-350:

(a) A final decision shall be ~~((reached based upon a preponderance of the evidence))~~ reached in the hearing; and

(b) A copy of the decision ~~((consisting of the hearing officer's findings of fact, conclusions of law, and judgment shall be mailed or provided directly to each of the parties and to the superintendent of public instruction by the hearing officer, together with a certification of the date of mailing and the parties to whom it was mailed.~~

~~(2) The decision of the hearing officer shall be drafted in a manner which:~~

~~(a) Sets forth the findings of fact, conclusions of law and judgment separately, and numbers each finding of fact and conclusion; and~~

~~(b) Avoids the revelation of personally identifiable information that is unnecessary to reaching and understanding the decision reached)) shall be mailed to each of the parties.~~

~~((3))~~ (2) A hearing officer may grant specific extensions of time beyond the period set forth in subsection (1) of this section at the ~~((written or otherwise documented))~~ request of the parent(s) or school district or other public agency ~~((, as follows:~~

~~(a) Continuances only by written order of the administrative law judge, which specifies the expiration date; and~~

~~(b) Continuances in instances of good cause and to periods of time that do not unjustifiably infringe on the right of either party to a timely decision)).~~

~~((4))~~ (3) Each hearing shall be conducted at a time and place which is reasonably convenient to the parent(s) and student involved.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-360 Final decision—Appeal to court of law.** (1) A decision made in a hearing initiated pursuant to WAC 392-172-350 is final, unless modified or overturned by a court of law. Any party aggrieved by the findings and deci-

sion made in a hearing who does not have the right to appeal under this chapter has the right to bring a civil action under section 615 (e)(2) of the Individuals with Disabilities Education Act. A civil action may be filed in either state or federal court.

(2) In any action brought under this section, the court:

(a) Shall receive the records of the administrative proceedings.

(b) Shall hear additional evidence at the request of a party.

(c) Shall grant the relief that the court determines to be appropriate basing its decision on the preponderance of the evidence.

(3) The district courts of the United States have jurisdiction of actions brought under section 615 of the Individuals with Disabilities Education Act without regard to the amount in controversy.

(4) Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of special education students, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Individuals with Disability Education Act, the procedures for a due process hearing in this chapter must be exhausted to the same extent as would be required had the action been brought under section 615 of the Individuals with Disabilities Education Act.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-362 Attorneys' fees.** (1) Each public agency shall inform parents that in any action or proceeding under section 615 of the Individuals with Disabilities Education Act, courts in their discretion, may award parents reasonable attorneys' fees ~~((under the circumstances described in section 615 (e)(4)))~~ as part of the costs to the parents of a special education student who is the prevailing party.

(2) Funds under Part B of the Individuals with Disabilities Education Act may not be used to pay attorneys' fees or costs of a party related to an action or proceeding under section 615 of the IDEA and the procedural safeguards in this chapter. This does not preclude a public agency from using funds under Part B of the IDEA for conducting an action or proceeding under section 615 of the IDEA.

(3) A court awards reasonable attorneys' fees under section 615 (i)(3) of the IDEA consistent with the following:

(a) Fees awarded under section 615 (i)(3) of the IDEA must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this section.

(b) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of the IDEA for services performed subsequent to the time of a written offer of settlement to a parent if:

(i) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of



an administrative proceeding, at any time more than ten days before the proceeding begins:

(ii) The offer is not accepted within ten days; and

(iii) The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(c) Attorneys' fees may not be awarded relating to any meeting of the IEP team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the office of the superintendent of public instruction for a mediation described in this chapter that is conducted prior to the filing of a request for due process under this chapter.

(d) Notwithstanding (b) of this subsection, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(e) Except as provided in (b) of this subsection, the court reduces, accordingly, the amount of the attorneys' fees awarded under section 615 of the IDEA, if the court finds that:

(i) The parent, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(iv) The attorney representing the parent did not provide to the school district the appropriate information in the due process complaint in accordance with this chapter.

(f) The provisions of (b) of this subsection do not apply in any action or proceeding if the court finds that the state or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of the IDEA.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-364 Student's status during hearing and judicial review processes.** (1) Except as provided in WAC 392-172-370 through 392-172-385, during the pendency of any administrative or judicial proceeding regarding a hearing request initiated pursuant to WAC 392-172-350 ((or a written request for mediation;)) unless the school district or other public agency and the parent(s) of the student or the adult student agree otherwise, the student involved in the hearing ((or mediation)) request shall remain in the educational program he or she was in at the time the hearing ((or mediation)) request was made.

(2) ((The student, with the consent of the parent(s) or the adult student, shall be enrolled in the general school program until the completion of all such proceedings if the hearing or mediation request involves an application for initial admission to the school.

(3) During the pendency of a hearing regarding the disciplinary exclusion of a special education student who brings a firearm (as defined in Section 921 of Title 18 of the U.S.C.); to school, the student can receive services in an alternative educational program for up to forty five calendar days. This alternative educational program must be developed in an individualized education program meeting conducted pursuant to WAC 392-172-156.) If the complaint involves an application for initial admission to public school, the student, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

(3) If the decision of a hearing officer in a due process hearing agrees with student's parents that a change of placement is appropriate, that placement must be treated as an agreement between the state, school district or other public agency and the parents for purposes of this section.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-370 Disciplinary exclusion—Purpose.** The purpose of WAC 392-172-370 through ~~((392-172-382))~~ 392-172-385 is to ensure that special education students are not being improperly excluded from school for disciplinary reasons. Each school district or other public agency, educational service district and public agency serving special education students shall take steps to ensure that each employee, contractor, and other agent of the district or other public agency responsible for education or care of a special education student is knowledgeable of WAC 392-172-370 through ~~((392-172-382))~~ 392-172-385. No school district or other public agency and no educational service district shall authorize, permit, or condone the use of disciplinary procedures which violate chapter 180-40 WAC and WAC 392-172-370 through ((392-172-382)) 392-172-385 by any employee, contractor, or other agent of the district or other public agency responsible for the education or care of a special education student.

#### NEW SECTION

**WAC 392-172-371 Disciplinary exclusion—Definitions.** The following definitions apply to this section only:

(1) "Controlled substance" means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(2) "Illegal drug" means a controlled substance, but does not include, a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or under any other provision of federal law.

(3) "Dangerous weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two and one-half inches in length.

(4) "Substantial evidence" means beyond a preponderance of the evidence.

NEW SECTION

**WAC 392-172-373 Change of placement for disciplinary removals.** For purposes of removals of a special education student from the student's current educational placement under WAC 392-172-370 et seq., a change of placement occurs if:

- (1) The removal is for more than ten consecutive school days; or
- (2) The student is subjected to a series of removals that constitute a pattern because they cumulate to more than ten school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

NEW SECTION

**WAC 392-172-37500 Removals—Ten school days or less.** To the extent removal would be applied to students without disabilities, school personnel may order the removal of a special education student from the student's current placement for not more than ten consecutive school days for any violation of school rules, and additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a change of placement under WAC 392-172-373(2).

NEW SECTION

**WAC 392-172-37505 Required services.** (1) A public agency need not provide services during periods of removal under WAC 392-172-37500 to a special education student who has been removed from his or her current placement for ten school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed.

(2) In the case of a special education student who has been removed from his or her current placement for more than ten school days in that school year, the public agency, for the remainder of the removals, shall provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.

(3) School personnel, in consultation with the student's special education teacher, determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP, when there is no change of placement.

NEW SECTION

**WAC 392-172-37510 Change of placement—Removals for weapons or drugs.** School personnel may order a change in placement of a special education student to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would

be subject to discipline, but for not more than forty-five days, if:

- (1) The student carries a weapon to school or to a school function under the jurisdiction of a state or local education agency; or
- (2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function under the jurisdiction of a state or local educational agency.

NEW SECTION

**WAC 392-172-377 Functional behavioral assessment and intervention plan.** Within ten business days after first removing a student for more than ten school days in a school year, including weapons violations, drugs violations, or behavior that is substantially likely to result in injury to the student or to others, the following actions shall be taken by the school district or other public agency:

(1) If the district or other public agency did not conduct a functional behavioral assessment and implement a behavioral intervention plan for the student before the behavior that resulted in the removal occurred, the district or other public agency shall convene an individualized education program meeting to develop an assessment plan.

(2) If the student already has a behavioral intervention plan, the individualized education program team shall meet to review the plan and its implementation and modify it, as necessary, to address the behavior.

(3) As soon as practicable after developing the plan described in subsection (1) of this section, and completing the assessments required by the plan, the district or other public agency shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.

(4) If subsequently, a special education student who has a behavioral intervention plan and who has been removed from the student's current educational placement for more than ten school days in a school year is subjected to a removal that does not constitute a change of placement under WAC 392-172-373, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

If one or more of the team members believe that modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

NEW SECTION

**WAC 392-172-379 Dangerous behavior—Authority of hearing officer.** A hearing officer under section 615 of the Individuals with Disabilities Education Act may order a change in the placement of a special education student to an appropriate interim alternative educational setting for not more than forty-five days if the hearing officer, in an expedited due process hearing:

- (1) Determines that the district or other public agency has demonstrated by substantial evidence that maintaining

the current placement of the student is substantially likely to result in injury to the student or to others;

(2) Considers the appropriateness of the student's current placement;

(3) Considers whether the district or other public agency has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and

(4) Determines that the interim alternative educational setting that is proposed by school personnel who have consulted with the student's special education teacher meets the requirements of WAC 392-172-381 (1) and (2).

#### NEW SECTION

**WAC 392-172-381 Determination of interim alternative educational setting.** Any interim alternative educational setting in which a student is placed under WAC 392-172-37510 and 392-172-379 shall:

(1) Be selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current individualized education program, that will enable the student to meet the goals set out in that individualized education program; and

(2) Include services and modifications designed to address the behavior described in WAC 392-172-37510 or 392-172-379, that are designed to prevent the behavior from recurring.

The individualized education program team shall determine an interim alternative educational setting under WAC 392-172-37510.

#### NEW SECTION

**WAC 392-172-38300 Manifestation determination review requirements.** If an action is contemplated by a school district, other public agency personnel, or a hearing officer that involves removing a student for weapons violations, drugs violations, behavior that is substantially likely to result in injury to the student or to others, or other behavior that violates any rule or code of conduct that applies to all students which results in a change of placement under WAC 392-172-373, the following actions shall be taken by the school district or other public agency:

(1) Not later than the date on which the decision to remove the student is made, the parents must be notified of that decision and provided the procedural safeguards notice described under this chapter; and

(2) Immediately, if possible, but in no case later than ten school days after the date on which the decision to remove the student is made, a review must be conducted of the relationship between the student's disability and the behavior subject to the disciplinary action.

#### NEW SECTION

**WAC 392-172-38305 Procedures for conducting a manifestation determination.** The individualized education

program team and other qualified personnel in a meeting shall conduct a manifestation determination review. In carrying out the review, the team may determine that the behavior of the student was not a manifestation of the student's disability only if the team:

(1) First considers, in terms of the behavior subject to disciplinary action, all relevant information including:

(a) Evaluation and diagnostic results, including the results of other relevant information supplied by the parents of the student;

(b) Observations of the student; and

(c) The student's individualized education program and placement.

(2) Then determines that:

(a) In relationship to the behavior subject to disciplinary action, the student's individualized education program and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the student's individualized education program and placement;

(b) The student's disability did not impair the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action; and

(c) The student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.

(3) If the team determines that any of the above standards in this section were not met, the behavior must be considered a manifestation of the student's disability.

(4) The manifestation determination review described in this section may be conducted at the same individualized education program meeting that is convened to address a functional behavioral assessment and behavioral intervention plan.

(5) If the review identifies deficiencies in the student's IEP or placement or in their implementation, the district or other public agency must take immediate steps to remedy those deficiencies.

#### NEW SECTION

**WAC 392-172-38310 Determination that behavior was not manifestation of disability.** (1) If the results of the manifestation determination review indicate that the behavior of the special education student was not a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities, except that a free appropriate public education shall continue to be made available to those students consistent with this chapter.

(2) The student's IEP team determines the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP if the student is removed because of behavior that has been determined not to be a manifestation of the student's disability.

(3) If the school district or other public agency initiates disciplinary procedures applicable to all students, the district

or other public agency shall ensure that the special education and disciplinary records of the special education student are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action.

(4) If a parent requests a hearing to challenge the determination that the behavior of the student was not a manifestation of the student's disability, then the student shall remain in the student's current educational placement as described in WAC 392-172-364 or interim alternative educational setting consistent with WAC 392-172-38405, whichever applies.

#### NEW SECTION

**WAC 392-172-38400 Parent appeal.** (1) If the student's parent disagrees with a determination that the student's behavior was not a manifestation of the student's disability or with any decision regarding placement for disciplinary purposes, the parent may request a hearing.

(2) The school district or other public agency shall arrange for an expedited hearing in any case described in WAC 392-172-38415 if requested by the parent.

(3) In reviewing a decision with respect to the manifestation determination, the hearing officer shall determine whether the district or other public agency has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of WAC 392-172-38305.

(4) In reviewing a decision to place the student in an interim alternative educational setting, the hearing officer shall apply the standards, under WAC 392-172-379.

#### NEW SECTION

**WAC 392-172-38405 Placement during appeals.** (1) If a parent requests a hearing regarding a disciplinary action related to removals for weapons or drugs or dangerous behavior to challenge the interim alternative educational setting or the manifestation determination, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five day time period provided for, whichever occurs first, unless the parent and the school district or other public agency agree otherwise.

(2) If a student is placed in an interim alternative educational setting pursuant to this section and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement the student must remain in the current placement (the student's placement prior to the interim alternative educational setting), except as provided for below.

(3) If school or other agency personnel maintain that it is dangerous for the student to be in the current placement (placement prior to removal to the interim alternative educational setting) during the pendency of the due process proceedings, the district or other public agency may request an expedited due process hearing.

(4) In determining whether the student may be placed in the alternative educational setting or in another appropriate

placement ordered by the hearing officer, the hearing officer shall apply the standards under WAC 392-172-379.

(5) A placement ordered pursuant to this section may not be longer than forty-five days.

(6) The procedure in this section may be repeated as necessary.

#### NEW SECTION

**WAC 392-172-38410 Protections for students not yet eligible for special education and related services.** (1) A student who has not been determined to be eligible for special education and related services under this chapter and who has engaged in behavior that violated any rule or code of conduct of the school district or other public agency, including any behavior described in this section, may assert any of the protections provided for in this section if the school district or other public agency had knowledge that the student was a special education student before the behavior that precipitated the disciplinary action occurred. A school district or other public agency must be deemed to have knowledge that a student is a special education student if:

(a) The parent of the student has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to personnel of the appropriate educational or other public agency that the student is in need of special education and related services;

(b) The behavior or performance of the student demonstrates the need for these services in accordance with this chapter;

(c) The parent of the student has requested an evaluation of the student pursuant to this chapter; or

(d) The teacher of the student, or other personnel of the district or other public agency, has expressed concern about the behavior or performance of the student to the director of special education of the district or other public agency or to other personnel of the district or other public agency in accordance with their established childfind or special education referral system.

(2) A district or other public agency would not be deemed to have knowledge under subsection (1) of this section, if as a result of receiving the information, the district or other public agency:

(a) Either:

(i) Conducted an evaluation consistent with this chapter and determined that the student was not a special education student; or

(ii) Determined that an evaluation was not necessary; and

(b) Provided notice to the student's parents of its determination consistent with this chapter.

(3) If the district or other public agency does not have knowledge that a student is a special education student prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors consistent with this section.

(4) If a request is made for an evaluation of a student during the time period in which the student is subjected to disci-

plinary measures under this section, the evaluation must be conducted in an expedited manner.

(5) Until the evaluation is completed, the student remains in the educational placement determined by school or other public agency which can include suspension or expulsion without educational services.

(6) If the student is determined to be a special education student taking into consideration information from the evaluation conducted by the district or other public agency and information provided by the parents, the district or other public agency shall provide special education and related services in accordance with the provisions of this chapter, including the discipline procedures and free appropriate public education requirements.

NEW SECTION

**WAC 392-172-38415 Expedited due process hearings.** Expedited due process hearings under this section shall:

(1) Result in a written decision being mailed to the parties within forty-five days of the district's or other public agency's receipt of the request for the hearing without exceptions or extensions. The timeline established in this subsection shall be the same for hearings requested by parents, school districts or other public agencies;

(2) Meet the requirements of WAC 392-172-354 except that the time periods identified for the disclosure of records and evaluations for purposes of expedited due process hearings are not less than two business days;

(3) Be conducted by a due process hearing officer who satisfies the impartiality requirements of WAC 392-172-352; and

(4) The decisions on expedited due process hearings are appealable under the state's normal due process appeal procedures.

NEW SECTION

**WAC 392-172-385 Referral to and action by law enforcement and judicial authorities.** (1) Nothing in Part B of the Individuals with Disabilities Education Act prohibits a school district or other public agency from reporting a crime committed by a special education student to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a special education student.

(2) A school district or other public agency reporting a crime committed by a special education student shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime.

(3) A school district or other public agency reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

**AVERSIVE (~~(THERAPY)~~)  
INTERVENTIONS—SAFEGUARDS**

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-388 Aversive (~~(therapy)~~) interventions.** The purpose of WAC 392-172-388 through 392-172-398 is to assure that special education students (~~((with a disabling condition))~~) are safeguarded against the use and misuse of various forms of aversive (~~(therapy)~~) interventions. Each school district or other public agency and educational service district shall take steps to assure that each employee, volunteer, contractor, and other agent of the district or other public agency responsible for the education, care, or custody of a special education student (~~((with a disabling condition))~~) is aware of WAC 392-172-388 through 392-172-398. No school district or other public agency and no educational service district shall authorize, permit, or condone the use of aversive (~~(therapy)~~) interventions which violates WAC 392-172-390 through 392-172-396 by any employee, volunteer, contractor or other agent of the district or other public agency responsible for the education, care, or custody of a special education student (~~((with a disabling condition))~~). Aversive (~~(therapy)~~) interventions, to the extent permitted, shall only be used as a last resort. Positive interventions shall be attempted by the district or other public agency and educational service district and described in the individualized education program consistent with WAC 392-172-161 prior to the use of aversive (~~(therapy)~~) interventions.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-390 Aversive (~~(therapy)~~) interventions—Definition.** For the purpose of WAC 392-172-388 through 392-172-398, the term "aversive (~~(therapy)~~) interventions" means the systematic use of stimuli or other treatment which a student is known to find painful or unpleasant for the purpose of discouraging undesirable behavior on the part of the student. The term does not include the use of reasonable force, restraint, or other treatment to control unpredicted spontaneous behavior which poses one of the following dangers:

- (1) A clear and present danger of serious harm to the student or another person.
- (2) A clear and present danger of serious harm to property.
- (3) A clear and present danger of seriously disrupting the educational process.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-392 Aversive (~~(therapy)~~) interventions—Prohibited forms.** There are certain forms of aversive (~~(therapy)~~) interventions that are manifestly inappropriate by reason of their offensive nature or their potential negative physical consequences, or both. The purpose of this

PROPOSED

section is to uniformly prohibit their use respecting special education students (~~((with a disabling condition,))~~) as follows:

(1) Electric current. No student may be stimulated by contact with electric current.

(2) Food services. No student who is willing to consume subsistence food or liquid when the food or liquid is customarily served may be denied or subjected to an unreasonable delay in the provision of the food or liquid.

(3) Force and restraint in general. No force or restraint which is either unreasonable under the circumstances or deemed to be an unreasonable form of corporal punishment as a matter of state law may be used. See RCW 9A.16.100 which cites the following uses of force or restraint as uses which are presumed to be unreasonable and therefore unlawful:

- (a) Throwing, kicking, burning, or cutting a student.
- (b) Striking a student with a closed fist.
- (c) Shaking a student under age three.
- (d) Interfering with a student's breathing.
- (e) Threatening a student with a deadly weapon.

(f) Doing any other act that is likely to cause and which does cause bodily harm to a student greater than transient pain or minor temporary marks.

~~((Note: This))~~ (4) The statutory listing of worst case uses of force or restraint described in subsection (3) of this section may not be read as implying that all unlisted uses (e.g., shaking a four year old) are permissible. Whether or not an unlisted use of force or restraint is permissible depends upon such considerations as the balance of these rules, and whether the use is reasonable under the circumstances.

~~((4))~~ (5) Hygiene care. No student may be denied or subjected to an unreasonable delay in the provision of common hygiene care.

~~((5))~~ (6) Isolation. No student may be excluded from his or her general instructional or service area and isolated within a room or any other form of enclosure, except under the conditions set forth in WAC 392-172-394.

~~((6))~~ (7) Medication. No student may be denied or subjected to an unreasonable delay in the provision of oral medication.

~~((7))~~ (8) Noise. No student may be forced to listen to noise or sound which the student obviously finds painful.

~~((8))~~ (9) Noxious sprays. No student may be forced to smell or be sprayed in the face with a noxious or potentially harmful substance.

~~((9))~~ (10) Physical restraints. No student may be physically restrained or immobilized by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object, except under the conditions set forth in WAC 392-172-394.

~~((10))~~ (11) Taste treatment. No student may be forced to taste or ingest a substance which is not commonly consumed or which is not commonly consumed in its existing form or concentration.

~~((11))~~ (12) Water treatment. No student's head may be partially or wholly submerged in water or any other liquid.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-394 Aversive ~~((therapy))~~ interventions—Other forms—Conditions.** Various forms of aversive ~~((therapy))~~ interventions which are not prohibited by WAC 392-172-392 nevertheless warrant close scrutiny. Accordingly, the use of aversive ~~((therapy))~~ interventions involving bodily contact, isolation, or physical restraint not prohibited by WAC 392-172-392 is conditioned upon compliance with certain procedural and substantive safeguards, as follows:

(1) Bodily contact. The use of any form of aversive ~~((therapy))~~ interventions not prohibited by WAC 392-172-392 which involves contacting the body of a special education student (~~((with a disabling condition))~~) shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(2) Isolation. The use of aversive ~~((therapy))~~ interventions which involves excluding a special education student (~~((with a disabling condition))~~) from his or her general instructional area and isolation of the student within a room or any other form of enclosure is subject to each of the following conditions:

(a) The isolation, including the duration of its use, shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(b) The enclosure shall be ventilated, lighted, and temperature controlled from inside or outside for purposes of human occupancy.

(c) The enclosure shall permit continuous visual monitoring of the student from outside the enclosure.

(d) An adult responsible for supervising the student shall remain in close proximity.

(e) Either the student shall be capable of releasing himself or herself from the enclosure or the student shall continuously remain within view of an adult responsible for supervising the student.

(3) Physical restraint. The use of aversive ~~((therapy))~~ interventions which involves physically restraining or immobilizing a special education student (~~((with a disabling condition))~~) by binding or otherwise attaching the student's limbs together or by binding or otherwise attaching any part of the student's body to an object is subject to each of the following conditions:

(a) The restraint shall only be used when and to the extent it is reasonably necessary to protect the student, other persons, or property from serious harm.

(b) The restraint, including the duration of its use, shall be provided for by the terms of the student's individualized education program established in accordance with the requirements of WAC 392-172-396.

(c) The restraint shall not interfere with the student's breathing.

(d) An adult responsible for supervising the student shall remain in close proximity.

(e) Either the student shall be capable of releasing himself or herself from the restraint or the student shall continu-

ously remain within view of an adult responsible for supervising the student.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-396 Aversive ((therapy)) interventions—Individualized education program requirements.** The terms of a student's individualized education program respecting the use of an aversive ((therapy)) interventions involving bodily contact, isolation, or physical restraint shall meet each of the following requirements:

(1) The individualized education program be consistent with the recommendations of a ((multidisciplinary)) IEP team which includes a school psychologist and/or other certificated employee who understands the appropriate use of the aversive ((therapy)) interventions and who concurs with the recommended use of the aversive ((therapy)) interventions, and a person who works directly with the student.

(2) The individualized education program shall specify the aversive ((therapy)) interventions that may be used.

(3) The individualized education program shall state the reason the aversive ((therapy)) interventions is judged to be appropriate and the behavioral objective sought to be achieved by its use, and shall describe the positive interventions attempted and the reasons they failed, if known.

(4) The individualized education program shall describe the circumstances under which the aversive ((therapy)) interventions may be used.

(5) The individualized education program shall describe or specify the maximum duration of any isolation or restraint.

(6) The individualized education program shall specify any special precautions that must be taken in connection with the use of the aversive ((therapy)) interventions technique.

(7) The individualized education program shall specify the person or persons permitted to use the aversive ((therapy)) interventions and the qualifications and required training of the personnel permitted to use the aversive ((therapy)) interventions.

(8) The individualized education program shall establish a means of evaluating the effects of the use of the aversive ((therapy)) interventions and a schedule for periodically conducting the evaluation.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-398 Aversive ((therapy)) interventions—Parent complaint process.** A parent of a special education student ((with a disabling condition)) may file a complaint alleging a violation of WAC 392-172-392, 392-172-394, or 392-172-396 involving the student. Each such complaint shall be investigated and addressed by a school district or other public agency, educational service district, and the superintendent of public instruction in accordance with the terms of this chapter.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-400 Definition of "educational records" as used in records rules.** (1) For the purpose of WAC 392-172-400 through 392-172-426 and the Family Educational Rights and Privacy Act of 1974 governing student records, the term "educational records" shall mean those records that:

(a) Are directly related to a student; and

(b) Are maintained by a school district or other public agency or by a party acting for the school district or other public agency.

(2) The term "educational records" does not include:

(a) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which:

(i) Are in the sole possession of the maker ((thereof)) of the record; and

(ii) Are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record and does not refer to an individual who permanently succeeds the maker of the record in his or her position;

(b) Records of a ((security)) law enforcement unit of a school district or other public agency which are:

(i) Maintained apart from the records described in subsection (1) of this section;

(ii) Maintained solely for district or other public agency security purposes; and

(iii) Not disclosed to individuals other than security officials of the same district or other public agency. This exception from the definition of educational records does not apply if educational records are disclosed to personnel of the school district and other public agency's security unit;

(c) Records relating to an individual who is employed by a school district or other public agency which:

(i) Are made and maintained in the normal course of business;

(ii) Relate exclusively to the individual in that individual's capacity as an employee; and

(iii) Are not available for use for any other purpose: This exception from the definition of "educational records" does not apply to records relating to an individual in attendance at the school district or other public agency who is employed as a result of his or her status as a student;

(d) Records relating to an adult student which are:

(i) Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in their professional or paraprofessional capacity;

(ii) Created, maintained, or used only in connection with the provision of treatment to the student; and

(iii) Not disclosed to anyone other than individuals providing the treatment. However, the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities which are part of the program of instruction at the school district or other public agency;

PROPOSED

(e) Records of a school district or other public agency which contain only information relating to a person after that person was no longer a student at the school district or other public agency. An example would be information collected by a school district or other public agency pertaining to the accomplishments of its alumni.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-402 Definitions used in records rules—"Destruction"—"Native language"—~~((And))~~ "~~((educational))~~ Participating agency" and "personally identifiable."** For the purpose of WAC 392-172-400 through 392-172-426 governing records of special education students:

(1) "Destruction" shall mean physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

(2) "Native language," when used with reference to an individual of limited English proficiency, means the language normally used by that individual, or in the case of a student, the language normally used by the parents of a student or by the adult student.

(3) "~~((Educational))~~ Participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information or from which information is obtained in implementing this chapter.

(4) "Personally identifiable" means that information includes:

(a) The name of the student, the student's parent, or other family member;

(b) The address of the student;

(c) A personal identifier, such as the student's social security number or student number; or

(d) A list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-404 Notice to parents.** ~~((The state))~~ Participating agencies, including the state, shall give notice that is adequate to fully inform parents about the requirements of this chapter regarding ~~((the identification, location, and evaluation of eligible special education students))~~ the protection of the confidentiality of any personally identifiable information collected, used, or maintained, including:

(1) A description of the extent to which notice is given in the native languages of the various population groups in the state;

(2) A description of the students on whom personally identifiable information is maintained, the types of information sought, the methods the ~~((state))~~ participating agency intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures that ~~((educational))~~ participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and students regarding this information, including the rights under the Family Educational Rights and Privacy Act of 1974 and implementing regulations.

Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both with circulation adequate to notify parents throughout the state of the activity.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-408 Access rights.** (1) Each school district or other public agency shall permit parents of special education students (or adult students) to inspect and review during school business hours any educational records relating to their student or the adult student which are collected, maintained, or used by the district or other public agency under this chapter. The district or other public agency shall comply with a request promptly and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, ~~((or))~~ delivery of services to the student or discipline and in no case more than forty-five calendar days after the request has been made.

(2) The right to inspect and review educational records under this section includes:

(a) The right to a response from the educational agency to reasonable requests for explanations and interpretations of the records;

(b) The right to request that the school district or other public agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(c) The right to have a representative of the parent or adult student inspect and review records.

(3) A school district or other public agency may presume that a parent has authority to inspect and review records relating to his or her student unless the district or other public agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-410 Record of access.** Each ~~((educational))~~ participating agency shall keep a record of parties obtaining access to educational records collected, maintained, or used under this chapter (except access by parents, adult students, and authorized employees of the educational agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.



AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-414 List of types and locations of information.** Each ~~((educational))~~ participating agency shall provide parents (and adult students) on request a list of the types and locations of educational records collected, maintained, or used by the agency.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-416 Fees.** (1) A participating educational agency may charge a fee for copies of records which are made for parents (or adult students) under this chapter if the fee does not effectively prevent the parents (or adult students) from exercising their right to inspect and review those records.

(2) ~~((An educational))~~ A participating agency may not charge a fee to search for or to retrieve information under this chapter.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-418 Amendment of records at the request of a parent or adult student.** (1) A parent of a special education student (or an adult student) who believes that information in educational records collected, maintained, or used under this chapter is inaccurate or misleading or violates the privacy or other rights of the student may request the ~~((educational))~~ participating agency which maintains the information to amend the information.

(2) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time after receipt of the request.

(3) If the agency refuses to amend the information in accordance with the request it shall inform the parent or adult student of the refusal and advise the parent or adult student of the right to a hearing provided for in WAC 392-172-420.

(4) The ~~((educational))~~ participating agency, on request, shall provide the parent or adult student an opportunity for a hearing to challenge information, in the educational records, to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

(5) If, as a result of the hearing, the ~~((educational))~~ participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parent or adult student in writing.

(6) If, as a result of the hearing, the ~~((educational))~~ participating agency decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent(s) or adult student of the right to place in the records it maintains on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(7) Any explanation placed in the records of the student in compliance with this section shall:

(a) Be maintained by the ~~((educational))~~ participating agency as part of the records of the student as long as the records or the contested portion is maintained by the educational agency; and

(b) Also be disclosed to any party to whom the records of the student (or the contested portion thereof) are disclosed.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-420 Hearing procedures regarding records.** A hearing initiated pursuant to WAC 392-172-418 to challenge information in educational records shall be conducted according to procedures which include at least the following elements:

(1) The hearing shall be held within a reasonable period of time after the ~~((educational))~~ agency has received the request;

(2) The parent or adult student shall be given notice of the date, place, and time reasonably in advance of the hearing;

(3) The hearing may be conducted by any party, including an official of the ~~((educational))~~ agency, who does not have a direct interest in the outcome of the hearing;

(4) The parent or adult student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised pursuant to WAC 392-172-418 and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney;

(5) The ~~((educational))~~ agency shall provide a written decision to the parent or adult student within a reasonable period of time after the conclusion of the hearing; and

(6) The decision of the ~~((educational))~~ agency shall:

(a) Be based solely upon the evidence presented at the hearing; and

(b) Include a summary of the evidence and the reasons for the decision.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-422 Consent.** (1) Except as to disclosures addressed in the discipline procedures under this chapter for which parental consent is not required by 34 CFR Part 99, consent of a parent or adult student shall be obtained before personally identifiable information is:

(a) Disclosed to anyone other than officials of ~~((educational))~~ participating agencies collecting or using the information obtained under this chapter subject to subsection (2) of this section; or

(b) Used for any purpose other than meeting a requirement imposed by this chapter.

(2) No school district or other public agency shall release information from educational records to ~~((educational))~~ participating agencies without the consent of a parent or adult student except in those cases in which a release of information without consent is permitted by the rules that implement the federal Privacy Rights of Parents and Students Part 99 of 34 Code of Federal Regulations (CFR) 34 sections 99.1 et seq. See 34 CFR 99.31 (when prior consent not required), 34

CFR 99.35 (disclosure to state and federal officials) and 34 CFR 99.37 (directory information).

(3) If a parent refuses to provide consent under this section, the school district or other public agency may use the due process hearing procedures in this chapter to override parental refusal.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-424 Safeguards.** (1) Each (~~educational~~) participating agency shall protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages. The same privacy provisions provided to parents are extended to special education students with consideration given to the type and severity of the student's disability.

(2) One official at each (~~educational~~) participating agency shall be designated as the individual responsible for assuring the confidentiality of any personally identifiable information.

(3) All persons collecting or using personally identifiable information shall receive training or instruction regarding:

(a) The state's policies and procedures on protection of the confidentiality of personally identifiable information (~~set forth in the state's annual program plan~~); and

(b) 34 CFR 99.1 et seq. (the Family Educational Rights and Responsibilities Act rules).

(4) Each (~~educational~~) participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-426 Destruction of information.** (1) Each school district or other public agency shall inform parent(s) (and adult students) when personally identifiable information collected, maintained, or used in compliance with this chapter is no longer needed to provide educational services to the student.

(2) The information shall thereafter be destroyed at the request of the parent(s) or adult student. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-500 Advisory council.** (1) The special education state advisory council is hereby established in order to help facilitate the provision of special education and related services to meet the unique needs of special education students.

(2) The membership of the council shall include at least one representative of each of the following groups or entities:

- (a) Individuals with disabilities;
- (b) Teachers (~~of special education students~~);
- (c) Parents of special education students;
- (d) Local administrators of special education programs;
- (e) Support services personnel;
- (f) Superintendents;
- (g) Principals;
- (h) Nonpublic schools serving special education students;
- (i) School directors;
- (j) Institutions of higher education that prepare special education and related services personnel;
- (k) State agencies involved in the financing or delivery of related services to special education students;
- (l) Vocational, community, or business organization concerned with the provision of transition services to special education students;
- (m) State juvenile and adult corrections agencies;
- (~~(k) Department of social and health services~~;
- (~~l) The medical profession~~; and
- (~~m~~)) (n) Other individuals or groups as may hereafter be designated and approved by the superintendent of public instruction.

A majority of the members of the advisory council shall be individuals with disabilities or parents of special education students.

(3) The council's purposes are to:

(a) Advise the superintendent of public instruction and make recommendations on all matters related to special education and specifically advise the superintendent of unmet needs within the state in the education of special education students including personnel needs as addressed in the state's comprehensive system of personnel development, WAC 392-172-550 et seq.;

(b) Comment publicly on (~~the state's annual program plan, state rules~~) any rules or regulations proposed by the state regarding the education of special education students (~~; and the procedures for distribution of funds~~); (~~and~~)

(c) Assist the state in developing and reporting such information and evaluations as may assist the federal government;

(d) Advise the state in developing corrective action plans to address findings identified in federal monitoring reports under Part B of the Individuals with Disabilities Education Act;

(e) Advise the state in developing and implementing policies relating to the coordination of services for special education students; and

(f) Advise the state on the education of eligible special education students who have been convicted as adults and incarcerated in adult prisons.

(4) The council shall conduct its affairs in accordance with bylaws approved by the superintendent of public instruction. To assure that information and recommendations are provided to the superintendent of public instruction, the state advisory council shall have the authority to recommend the design of its organization and to appoint subcommittees from its membership for carrying out council responsibilities. Ad hoc subcommittees with membership other than council members may be appointed. The superintendent of public

instruction or designee must give prior approval for such appointments.

(5) ~~((Procedures —))~~ The council shall follow the procedures ~~((noted))~~ in this ~~((section))~~ subsection.

(a) The advisory council shall meet as often as necessary to conduct its business.

(b) By July 1 of each year, the advisory council shall submit an annual report of council activities and suggestions to the superintendent of public instruction. This report must be made available to the public in a manner consistent with other public reporting requirements of this chapter.

(c) Official minutes must be kept on all council meetings and shall be made available to the public on request to the office of superintendent of public instruction.

(d) All advisory council meetings and agenda items must be publicly announced ~~((prior to the meeting))~~ enough in advance of the meeting to afford interested parties a reasonable opportunity to attend, and meetings must be open to the public.

(e) Interpreters and other necessary services must be provided at council meetings for council members or participants.

(f) The advisory council shall serve without compensation but the superintendent of public instruction must reimburse the council for reasonable and necessary expenses for attending meetings and performing duties.

## ~~((INTERAGENCY AGREEMENTS))~~ METHODS OF ENSURING SERVICES

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-502 Interagency agreements.** (1) The superintendent of public instruction shall ~~((develop and implement))~~ ensure that an interagency agreement ~~((s with all other state and local agencies that provide or pay for services required under this chapter for special education students))~~ or other mechanism for interagency coordination is in effect between each noneducational public agency described in this section and the state, in order to ensure that all services described in this section that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute. Consideration shall be given to preserving existing arrangements between school districts and other noneducational public agencies ~~((and other agencies))~~ which are consistent with this chapter. These agreements or mechanisms shall:

~~((4))~~ (a) Describe the role that each agency plays in providing or paying for required services;

~~((2))~~ (b) Define the financial responsibility of each agency for providing special education students with a free appropriate public education. The financial responsibility of each noneducational public agency including the state Medicaid agency and other public insurers of special education students, shall precede the financial responsibility of the school district (or the state agency responsible for development of the student's individualized education program);

~~((3))~~ (c) Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; ~~((and~~

~~((4))~~ (d) Establish procedures under which school districts and other public agencies may initiate proceedings in order to secure reimbursement from agencies that are parties to the agreements or otherwise implement the provisions of the agreements; and

(e) Establish procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services.

(2) If any public agency other than a school district is otherwise obligated under federal or state law, or assigned responsibility under state policy to provide or pay for any services that are also considered special education or related services as defined in this chapter, such as, but not limited to, assistive technology devices and services, supplementary aids and services and transition services that are necessary for ensuring a free appropriate public education to special education students within the state, the public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

(3) A noneducational public agency may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

(4) If a public agency other than an educational agency fails to provide or pay for the special education and related services described in this section, the school district (or state agency responsible for developing the student's IEP) shall provide or pay for these services to the student in a timely manner. The school district or state agency may then claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency shall reimburse the school district or state agency in accordance with the terms of the interagency agreement or other mechanism described in this section, and the agreement described in subsection (1)(d) of this section.

## NEW SECTION

**WAC 392-172-50300 Special education students covered by public insurance.** (1) A public agency may use the Medicaid or other public insurance benefits programs in which a student participates to provide or pay for services required under this chapter, as permitted under the public insurance program, except as provided in subsection (2) of this section.

(2) With regard to services required to provide FAPE to an eligible student under this chapter, the public agency:

(a) May not require parents to sign up for or enroll in public insurance programs in order for their student to receive FAPE under Part B of the IDEA;

(b) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this chapter, but pursuant to WAC 392-172-50305, may pay the cost that the parent otherwise would be required to pay; and

(c) May not use a student's benefits under a public insurance program if that use would:

(i) Decrease available lifetime coverage or any other insured benefit;

(ii) Result in the family paying for services that would otherwise be covered by the public insurance program and that are required for the student outside of the time the student is in school;

(iii) Increase premiums or lead to the discontinuation of insurance; or

(iv) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

#### NEW SECTION

**WAC 392-172-50305 Special education students covered by private insurance.** (1) With regard to services required to provide FAPE to an eligible student under this chapter, a public agency may access a parent's private insurance proceeds only if the parent provides informed consent consistent with this chapter.

(2) Each time the public agency proposes to access the parent's private insurance proceeds, it must:

(a) Obtain parent consent in accordance with this chapter; and

(b) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

(3) If a public agency is unable to obtain parental consent to use the parent's private insurance, or public insurance when the parent would incur a cost for a specified service required under this chapter, to ensure FAPE the public agency may use its Part B funds to pay for the service.

(4) To avoid financial cost to parents who otherwise would consent to use private insurance, or public insurance if the parent would incur a cost, the public agency may use its Part B funds to pay the cost the parents otherwise would have to pay to use the parent's insurance (e.g., the deductible or co-pay amounts).

(5) Proceeds from public or private insurance will not be treated as program income for purposes of 34 CFR 80.25.

(6) If a public agency spends reimbursements from federal funds (e.g., Medicaid) for services under this chapter those funds will not be considered "state or local" funds for purposes of the maintenance of effort provisions in this chapter.

(7) Nothing in this section should be construed to alter the requirements imposed on a state Medicaid agency, or any other agency administering a public insurance program by federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, or any other public insurance program.

#### PROGRAM MONITORING— FUNDING—FISCAL AUDITING

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-504 Monitoring.** (1) The superintendent of public instruction or designee shall annually monitor selected local school district or other public agency special education programs. The purposes of monitoring shall be:

(a) to determine the school district and other public agency's compliance with this chapter and the federal regulations implementing 20 USC Section 1401, et seq. (Part B of the Individuals with Disabilities Education Act) and federal and state special education laws including validation of information included in school district or other public agency requests for federal funds;

(b) to provide the school district or other public agency with technical assistance for improving the quality of its special education program).

(2) The superintendent of public instruction or designee shall develop procedures (including specific time lines) for monitoring school districts and other public agencies. These procedures shall include:

(a) Collection of data and reports;

(b) Conduct of on-site visits;

(c) A review of state and federal special education fund utilization; and

(d) Comparison of a sampling of individualized education programs with the programs actually provided.

(3) Following a monitoring visit, ~~(a written)~~ an interim monitoring report including a proposed corrective action plan shall be submitted to the school district or other public agency. The monitoring report shall include, but not be limited to:

(a) Findings of noncompliance, if any; and

(b) Required corrective actions for remediation of any such instance(s) of noncompliance.

(4) The school district or other public agency shall have thirty calendar days after the date of its receipt of the interim monitoring report to provide the office of superintendent of public instruction with:

(a) Acceptance of the report; or

(b) Supplemental arguments and/or facts which may serve as a basis for alteration of the monitoring report; and ~~((b) A written)~~ (c) Any revisions to the proposed action plan which sets forth the measures the district or other public agency shall take and time period(s) within which the district or other public agency shall act in order to remediate the instance(s) of noncompliance ~~((e))~~.

(5) In the event that the district or other public agency submits supplemental arguments and/or facts which may serve as a basis for alteration of the monitoring report, the office of superintendent of public instruction shall within thirty calendar days provide the district or other public agency with a ~~((determination as to the alteration of the))~~ final monitoring report. ~~((The school district or other public agency shall, within thirty calendar days of receipt of the determination, provide the office of superintendent of public~~

~~instruction a written action plan, if any, which results from that determination.~~

~~(5) The superintendent of public instruction or designee either shall approve the plan as submitted or shall request the school district or other public agency to make such modifications as are considered necessary. Once an approvable plan has been submitted, the district or other public agency shall be provided written notice of:~~

~~(a) Approval;~~

~~(b) The performance expected of the district or other public agency; and~~

~~(c) The schedule for periodic review or verification of the school district and other public agency's progress toward remediation of the instance(s) of noncompliance;)~~

~~(6) If the school district or other public agency ((fails to submit an approvable corrective action plan required in WAC 392-172-504(4) or)) fails to comply with a corrective action plan approved pursuant to WAC 392-172-504(5), the superintendent of public instruction or designee shall institute procedures to ((insure)) ensure corrective action ((or prompt response to a monitoring report)). Such procedures may include one or more of the following:~~

~~(a) Verification visits by office of superintendent of public instruction staff to:~~

~~(i) Determine whether the school district or other public agency is taking the required corrective action;~~

~~(ii) Expedite the school district and other public agency's response to ((a)) the final monitoring report; and~~

~~(iii) Provide any necessary technical assistance to the school district or other public agency in its efforts to comply.~~

~~(b) ((Withhold)) Withholding, in whole or part, a specified amount of state and/or federal special education funds, in compliance with the provisions of WAC 392-172-590 and 392-172-514.~~

~~(c) ((Initiate)) Initiating request for office of superintendent of public instruction audit pursuant to WAC 392-172-508 through 392-172-518 which may result in the recovery of unlawfully received or expended state and/or federal special education funds.~~

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-506 Use and allocation of Part B funds.** (1) The superintendent of public instruction may use five percent of the total state allotment in any fiscal year under Part B of the Individuals with Disabilities Education Act, or ((four)) five hundred ((fifty)) thousand dollars, whichever is greater, for administrative costs related to carrying out ((sections 612 and 613 of)) the IDEA and section 619 (including the coordination of activities under Part B of the IDEA with, and providing technical assistance, to other programs that provide services to special education students). However, this amount cannot be greater than twenty-five percent of the state's total allotment for the fiscal year under Part B of the Individuals with Disabilities Education Act.

(2) Allowable costs for use of the five percent include:

(a) Administration of ((the)) state ((plan)) activities and for planning at the state level, including planning, or assisting

in the planning, of programs or projects for the education of special education students;

(b) Approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of special education students;

(c) Technical assistance to districts with respect to the requirements of this chapter;

(d) Leadership services for the program supervision and management of special education activities for special education students; and

(e) Other state leadership activities and consultative services.

(3) The office of the superintendent of public instruction based on input from school districts may use the portion of its allocation it does not use for administration:

(a) For support services and direct services ((in accordance with the priority requirements of Part B)); and

(b) For the administrative costs of the state's monitoring activities and complaint investigations, to the extent that these costs exceed the administrative costs for monitoring and complaint investigations incurred during fiscal year 1985;

(c) The establishment and implementation of the mediation process required by this chapter, including providing for the costs of mediators and support personnel;

(d) To assist school districts in meeting personnel shortages;

(e) Activities at the state and local levels to meet the performance goals established by the state and to support the development and implementation of the state improvement plan under subpart 1 of Part D of the IDEA if the state receives funds under that subpart;

(f) To supplement other amounts used to develop and implement a state-wide coordinated services system designed to improve results for students and families, including special education students and their families, but not to exceed one percent of the amount received by the state under section 611 of the IDEA. This system must be coordinated with and, to the extent appropriate, build on the system of coordinated services developed by the state under Part C of the IDEA; and

(g) For subgrants to school districts for capacity-building and improvement.

(4) Based upon the availability of federal funds for any given fiscal year, the office of superintendent of public instruction may establish priorities in awarding subgrants to school districts for capacity-building and improvement on a competitive or targeted basis.

These federal funds are to be used by school districts to assist them in providing direct services and in making systemic change to improve results for special education students through one or more of the following:

(a) Direct services, including alternative programming for students who have been expelled from school, and services for students in correctional facilities, and students enrolled in state-operated or state-supported schools;

(b) Addressing needs or carrying out improvement strategies identified in the state's improvement plan under subpart 1 of Part D of the IDEA;

(c) Adopting promising practices, materials, and technology, based on knowledge derived from education research and other sources;

(d) Establishing, expanding, or implementing inter-agency agreements and arrangements between school districts and other agencies or organizations concerning the provision of services to special education students and their families; and

(e) Increasing cooperative problem-solving between parents and school personnel and promoting the use of alternative dispute resolution.

~~((4))~~ (5) For the purposes of this section:

(a) "Direct services" means services provided to a special education student by the state directly, by contract, or through other arrangements; and

(b) "Support services" includes implementing the comprehensive system of personnel development, recruitment and training of hearing officers, mediators, and surrogate parents, and public information and parent training activities relating to free, appropriate public education for special education students.

(6) Of the funds the office of the superintendent of public instruction retains under this section, the office may use the funds directly, or distribute them to school districts on a competitive, targeted, or formula basis.

#### NEW SECTION

**WAC 392-172-507 Nonsupplanting and maintenance of effort.** (1) Except as provided under WAC 392-172-606, federal funds available for special education students under Part B of the Individuals with Disabilities Education Act, shall be used to supplement, and in no case supplant, federal, state and local funds (including funds that are not under the direct control of the state or local education agencies) expended for special education and related services provided to special education students.

(2) On either a total or per-capita basis, the state will not reduce the amount of state financial support for special education and related services for special education students, or otherwise made available because of the excess costs of educating those students, below the amount of that support for the preceding fiscal year.

**AMENDATORY SECTION** (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-510 Child count procedures.** The superintendent of public instruction shall report to the United States Secretary of Education no later than February 1 of each year the number of special education students aged three through twenty-one residing in the state who are receiving special education and related services. The superintendent shall submit the report on forms provided by the United States Secretary of Education.

(1) Information required in the report includes:

(a) The number of special education students receiving special education and related services on December 1 of that school year;

(b) The number of special education students aged three through five who are receiving free, appropriate public education;

(c) The number of those special education students aged six through seventeen and eighteen through twenty-one within each disability category, as defined in the definition of "special education students"; and

(d) The number of those special education students aged three through twenty-one for each year of age (three, four, five, etc.).

(2) For the purpose of this part, a student's age is the student's actual age on the date of the child count: December 1.

(3) The state superintendent may not report a student (~~(aged six through twenty-one)~~) under more than one disability category.

(4) If a special education student (~~(aged six through twenty-one)~~) has more than one disability, the superintendent shall report that student in accordance with the following procedure:

(a) A student with deaf-blindness and not reported as having a developmental delay must be reported under the category "deaf-blindness."

(b) A student who has more than one disability (other than deaf-blindness or developmental delay) must be reported under the category "multiple disabilities."

(5) The office of the superintendent of public instruction shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of special education students receiving special education and related services on the dates in question.

(6) The office of the superintendent of public instruction may include in its report special education students who are enrolled in a school or program that is operated or supported by a public agency, and that (~~either~~):

(a) Provides them with both special education and related services; (~~or~~)

(b) Provides them only with special education if they do not need related services to assist them in benefiting from that special education; or

(c) In the case of special education students enrolled by their parents in private schools, provides them with special education or related services under WAC 392-172-232 et seq.

(7) The superintendent may not include special education students in its reports who:

(a) Are not enrolled in a school or program operated or supported by a public agency;

(b) Are not provided special education that meets state standards;

(c) Are not provided with a related service that they need to assist them in benefiting from special education;

(d) Are counted by the state's lead agency for Part (~~(H)~~) C services; or

(e) Are receiving special education funded solely by the federal government including students served by the U.S. Departments of Interior, Defense, or Education.

NEW SECTION

**WAC 392-172-511 Disproportionality.** (1) Each state that receives assistance under Part B of the IDEA shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the state with respect to:

(a) The identification of students as special education students, including the identification of students as special education students in accordance with a particular impairment described in this chapter; and

(b) The placement in particular educational settings of these students.

(2) In the case of a determination of significant disproportionality with respect to the identification of a student as a special education student, or the placement in particular educational settings of these students, the superintendent of public instruction shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the requirements of Part B of the IDEA.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-512 Audits.** (1) The superintendent of public instruction or designee shall conduct fiscal/program audits of school district or other public agency special education programs. The purposes of such audits shall be:

(a) To determine compliance or noncompliance with:

(i) A school district and other public agency's application(s) for state and federal excess cost funds;

(ii) The provisions of this chapter; and

(iii) Any supplemental federal conditions to funding as may now or hereafter exist.

(b) To establish a factual basis for:

(i) The recovery of unlawfully received or expended state or federal special education funds; or

(ii) The initiation of fund withholding proceedings.

(2) ~~((Preliminary audit report—Following an audit, a preliminary written audit report shall be submitted to the school district or other public agency for review and comment. The preliminary audit report shall include, but not be limited to:~~

~~(a) Findings of noncompliance which could include comparisons to findings of noncompliance as a result of monitoring, if any; and~~

~~(b) Recommendations for remediation of any such instance(s) of noncompliance.~~

~~(3) The school district or other public agency shall have fifteen days after the date of its receipt of the preliminary audit report to provide the superintendent of public instruction or designee a written reply setting forth any supplemental arguments and/or facts that may serve as a basis for alteration of the preliminary finding(s) of noncompliance.~~

~~(4) Final audit report—A final written audit report shall be provided to the school district or other public agency after review of the supplemental arguments and/or facts submitted~~

~~by the district or other public agency. The final audit report shall include, but not necessarily be limited to:~~

~~(a) Findings of noncompliance, if any; and~~

~~(b) Recommendations for remediation of any such instance(s) of noncompliance.~~

~~(5) The school district or other public agency shall have fifteen days after the date of its receipt of the final audit report to provide the superintendent of public instruction or designee a written plan which sets forth the measures the district or other public agency shall take and time period(s) within which the district or other public agency shall act in order to remedy the instance(s) of noncompliance.~~

~~(6) The superintendent of public instruction or designee shall either approve the plan as submitted or request the school district or other public agency to make such modifications as are considered necessary. Once an approvable plan has been submitted the district or other public agency shall be provided written notice of:~~

~~(a) Approval;~~

~~(b) The performance expected of the district or other public agency; and~~

~~(c) The schedule for periodic review or audit of the school district and other public agency's progress toward remediation of the instance(s) of noncompliance.) The superintendent of public instruction shall comply with chapter 392-115 WAC in the resolution of all audits.~~

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-514 Fund withholding.** (1) In the event a school district or other public agency fails to submit an approvable ~~((remediation))~~ corrective action plan required by ~~((WAC 392-172-512))~~ chapter 392-115 WAC, audit resolution, or fails to submit an approvable corrective action plan pursuant to WAC 392-172-504, monitoring, or fails to comply with a ~~((remediation))~~ corrective action plan approved pursuant to chapter 392-115 WAC ~~((392-172-512))~~ or fails to comply with a corrective action plan pursuant to WAC 392-172-504, the superintendent or designee shall provide the school district or other public agency notice which complies with RCW 34.05.434 of:

(a) Intent to withhold a specified amount of state and/or federal special education funds; and

(b) The school district and other public agency's opportunity for a hearing before the superintendent of public instruction or designee prior to commencement of the withholding.

(2) Funds may be withheld in whole or part in the event the district or other public agency fails to request a hearing or the hearing decision upholds the final audit or monitoring in whole or part. (RCW 28A.155.100.)

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-516 Recovery of funds.** ~~((1))~~ If a preliminary audit conducted pursuant to WAC 392-172-512 indicates that a district or other public agency has unlawfully received and/or expended either state or federal special edu-

education funds, the superintendent of public instruction or designee shall provide the school district or other public agency with an opportunity for an informal conference prior to the final audit report.

~~(2) If the final audit report sets forth one or more instances of unlawful receipt or expenditure of either state or federal special education funds, the superintendent of public instruction or designee shall take such action as he or she deems necessary to recover the funds including, but not limited to, a reduction in future allocations of any amount of any state funds and/or any amount of federal special education funds to the district or other public agency.~~

~~(3) No right to a hearing in connection with the recovery of funds unlawfully received and/or expended is granted by this chapter.)~~ The superintendent of public instruction shall comply with the provisions of chapter 392-115 WAC in the event an audit conducted pursuant to WAC 392-172-512 indicates that a district or other public agency has unlawfully received and/or expended state or federal special education funds.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-520 Implementation by state.** In implementing the private school provisions of ~~((this chapter))~~ WAC 392-172-219 through 392-172-228, the state shall:

(1) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(2) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a special education student; ~~((and))~~

(3) Provide an opportunity for those private schools and facilities to participate in the development and revision of state standards that apply to them; and

(4) Ensure that a special education student who is placed in or referred to a private school or facility by a school district or other public agency:

(a) Is provided special education and related services;

(i) In conformance with an IEP that meets the requirements of WAC 392-172-156 et seq.; and

(ii) At no cost to the parents;

(b) Is provided an education that meets the standards that apply to education provided by school districts and other public agencies, including the requirements of this chapter; and

(c) Has all of the rights of a special education student who is served by a school district or other public agency.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-526 State responsibility.** The state shall ensure that to the extent consistent with their number and location in the state, provision is made for the participation of private school special education students in the program assisted or carried out under this chapter by providing them with special education and related services, in accordance with WAC 392-172-232 through 392-172-248.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-550 Comprehensive system of personnel development.** The superintendent of public instruction shall establish and implement procedures for developing and conducting a comprehensive system of personnel development ~~((which includes))~~ that:

~~(1) ((The continuing education of general and special education instructional services personnel;~~

~~(2) Detailed procedures to assure that all personnel necessary to carry out the purposes of the Individuals with Disabilities Education Act, P.L. 102-119, 34 CFR 300.1, as of October 1, 1992, are appropriately and adequately prepared;~~

~~(3) Provisions consistent with 34 CFR 300.153, 300.380 through 300.383, and 303.360;~~

~~(4) Effective procedures for acquiring and disseminating significant information derived from educational research, demonstration and similar projects; and~~

~~(5) The adoption, where appropriate, of promising educational practices and material developed through research, demonstration, and similar initiatives.)~~ Is consistent with the purposes of Part B of the Individuals with Disabilities Education Act and the Part C Program for Infants and Toddlers and with Disabilities:

(2) Is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel;

(3) Meets the requirements of 34 CFR 300.381 and 300.382; and

(4) Is updated at least every five years.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-552 Definitions.** The following definitions apply to this chapter:

(1) "Appropriate professional requirements in the state," those entry level requirements that are based on the highest requirements in the state applicable to the profession or discipline in which a person is providing special education or related services and that establish ~~((the))~~ suitable qualifications for personnel providing special education and related services under ~~((chapters 392-172 and 392-173 WAC))~~ Part B of the IDEA to special education children and youth ((with disabilities)) who are served by state, local, and private agencies;

(2) "Highest requirements in the state applicable to a specific profession or discipline," the highest entry-level academic degree needed for any state-approved or recognized certification, licensing, or registration or other comparable requirements that apply to that profession or discipline;

(3) "Profession or discipline," a specific occupational category that provides special education and related services to special education children and youth ((with disabilities)) under ~~((chapters 392-172 and 392-173 WAC))~~ Part B of the IDEA, has been established or designated by the state, and has a required scope of responsibility and degree of supervision ~~((;))~~, and is not limited to traditional occupational categories;



(4) "Qualified" means that a person, in accordance with the provisions contained in 34 CFR ((300.153)) 300.136 of the Individuals with Disabilities Education Act, has met superintendent of public instruction approved or recognized certification, licensing, registration, or other comparable requirements for the profession or discipline in which the person is providing special education and related services; and

(5) "State-approved or state-recognized certification, licensing, registration, or other comparable requirements" means the requirements that the state legislature either has enacted or has authorized a state agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in the state.

#### NEW SECTION

**WAC 392-172-553 Adequate supply of qualified personnel.** The office of superintendent of public instruction shall complete an analysis of state and local needs for professional development for personnel to serve special education students that includes, at a minimum:

(1) The number of personnel providing special education and related services; and

(2) Relevant information on current and anticipated personnel vacancies and shortages (including the number of individuals with temporary certification), and on the extent of certification or retraining necessary to eliminate these shortages, that is based, to the maximum extent possible, on existing assessments of personnel needs.

#### NEW SECTION

**WAC 392-172-559 Improvement strategies.** The office of superintendent of public instruction shall describe the strategies the state will use to address the needs identified under WAC 392-172-553. These strategies must include how the state will address the identified needs for in-service and preservice preparation to ensure that all personnel who work with special education students (including both professional and paraprofessional personnel who provide special education, general education, related services, or early intervention services) have the skills and knowledge necessary to meet the needs of special education students. The plan must include a description of how:

(1) The state will prepare general and special education personnel with the content knowledge and collaborative skills needed to meet the needs of special education students including how the state will work with other states on common certification criteria;

(2) The state will prepare professionals and paraprofessionals in the area of early intervention with the content knowledge and collaborative skills needed to meet the special education needs of infants and toddlers;

(3) The state will work with institutions of higher education and other entities that (on both a preservice and an in-service basis) prepare personnel who work with special education students to ensure that those institutions and entities develop the capacity to support quality professional development programs that meet state and local needs;

(4) The state will work to develop collaborative agreements with other states for the joint support and development of programs to prepare personnel for which there is not sufficient demand within a single state to justify support or development of such a program of preparation;

(5) The state will work in collaboration with other states, particularly neighboring states, to address the lack of uniformity and reciprocity in credentialing of teachers and other personnel;

(6) The state will enhance the ability of teachers and others to use strategies, such as behavioral interventions, to address the conduct of special education students that impedes the learning of special education students and others;

(7) The state will acquire and disseminate, to teachers, administrators, school board members, and related services personnel, significant knowledge derived from educational research and other sources, and how the state will, if appropriate, adopt promising practices, materials, and technology;

(8) The state will recruit, prepare, and retain qualified personnel, including personnel with disabilities and personnel from groups that are under-represented in the fields of regular education, special education, and related services;

(9) The plan is integrated, to the maximum extent possible, with other professional development plans and activities, including other federal and state laws that address personnel recruitment and training; and

(10) The state will provide for the joint training of parents and special education, related services, and general education personnel.

#### NEW SECTION

**WAC 392-172-561 School district implementation of comprehensive system of personnel development.** Each school district or other public agency shall have on file with the office of superintendent of public instruction information to demonstrate that:

(1) All personnel necessary to carry out Part B of the IDEA within the jurisdiction of the school district or other public agency are appropriately and adequately prepared consistent with WAC 392-172-550 et seq.; and

(2) To the extent the school district or other public agency determines appropriate, it shall contribute to and use the comprehensive system of personnel development of the state established under WAC 392-172-550 et seq.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-574 Professional standards review.** ~~((Before October 1st of each year,))~~ The special education section, on behalf of the superintendent of public instruction, shall review the professional requirements in the statutes necessary for the provision of special education and related services. This professional standards review must include the requirements of all statutes and the rules of all state agencies applicable to serving special education students, and shall include the standards of the superintendent of public instruc-

tion, the department of licensing, the division of vocational rehabilitation, the department of social and health services, and any other public agency responsible for the licensing or certification of personnel who provide special education or related services. In conducting this review, the superintendent of public instruction must:

(1) Determine the highest standards applicable to each profession or discipline based upon the most current information available to the superintendent of public instruction;

(2) Identify those professions or disciplines for which the highest requirements of the state apply;

(3) Identify those specific professions or disciplines for which the existing personnel standards for special education or related services, including standards for temporary or emergency certification are not based on the highest requirement in the state applicable to that specific profession or discipline; and

(4) For those professions or disciplines for which the highest requirements of the state do not apply, detail the steps the superintendent of public instruction is taking (and the procedures for notifying public agencies and personnel of those steps and the time lines it has established) for the retraining or hiring of personnel that meet the appropriate professional requirements in the state of Washington. In determining ~~((annually))~~ the status of personnel standards for each applicable profession or discipline in the state (as defined in WAC 392-172-572), the superintendent of public instruction's review and determination must be based on current information that accurately describes, for each profession or discipline in which personnel are providing special education or related services, whether the applicable standards are consistent with the highest requirements in the state for that profession or discipline.

The results of the review conducted in accordance with the provision of this section shall be ~~((described in a report prepared for and))~~ submitted to the ~~((comprehensive system of personnel development committee. Each annual report and necessary))~~ state advisory council for special education. Supporting documentation must be maintained in the files of the superintendent of public instruction's special education section and must be available to the public. ~~((Each report shall be incorporated in the appropriate state plan for Part B of the Individuals with Disabilities Education Act submitted to the Department of Education.))~~

#### NEW SECTION

**WAC 392-172-576 Personnel shortages—Requirement.** In implementing this section, the office of superintendent of public instruction has adopted a policy that includes a requirement that a school district or other public agency in the state make an ongoing good faith effort to recruit and hire appropriately and adequately trained personnel to provide special education and related services to special education students, including, in a geographic area of the state where there is a shortage of personnel that meet these qualifications, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards under WAC 392-172-572,

consistent with state law and the steps described in WAC 392-172-574, within three years.

### PERFORMANCE GOALS AND INDICATORS

#### NEW SECTION

**WAC 392-172-57700 Performance goals and indicators.** (1) The office of superintendent of public instruction shall establish goals for the performance of special education students that promote the purposes of the Individuals with Disabilities Education Act and are consistent, to the maximum extent appropriate, with the state's four learning goals and essential academic learning requirements for all students.

(2) In addition, the office of superintendent of public instruction shall establish performance indicators that shall be used to assess progress toward achieving those goals that at a minimum address the performance of special education students on assessments, dropout rates, and graduation rates.

(3) The office of superintendent of public instruction shall report to the U.S. Secretary of Education and the public every two years on the progress of the state and of special education students in the state toward meeting the goals established under this section. Based on its assessment of that progress, the office of superintendent of public instruction shall revise its state improvement plan under subpart 1 of Part D of the IDEA as may be needed to improve its performance, if the state receives assistance under that subpart.

### PARTICIPATION IN ASSESSMENTS AND REPORTING RESULTS

#### NEW SECTION

**WAC 392-172-57800 Participation in assessments and reporting results.** (1) The office of superintendent of public instruction shall file with the U.S. Secretary of Education information to demonstrate that special education students are included in general state and district-wide assessment programs, with appropriate accommodations and modifications in administration if necessary.

(2) As appropriate the office of superintendent of public instruction, school districts or other public agencies shall:

(a) Develop guidelines for the participation of special education students in alternate assessments for those students who cannot participate even with accommodations or modifications in state and district-wide assessment programs;

(b) Develop alternate assessments; and

(c) Begin not later than July 1, 2000, to conduct the alternate assessments.

(3) In implementing this section, the office of superintendent of public instruction shall make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled students, the following information:

(a) The number of special education students participating in:

(i) Regular assessments; and

(ii) Alternate assessments.

PROPOSED

(b) The performance results of special education students:

- (i) Participating in regular assessments; and
- (ii) On alternate assessments (not later than July 1, 2000,) if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual students.

(4) Reports to the public must include:

- (a) Aggregated data that include the performance of special education students together with all other students; and
- (b) Disaggregated data on the performance of special education students.

**SUSPENSION AND EXPULSION RATES**

NEW SECTION

**WAC 392-172-57900 Reporting on suspension and expulsion rates.** (1) Annually, school districts or other public agencies shall report to the state on the rates of long-term suspensions and expulsions of special education students and nondisabled students for the preceding school year. The state shall examine this data to determine if significant discrepancies are occurring:

- (a) Among school districts or other public agencies; or
  - (b) Between nondisabled students and special education students within school districts or other public agencies.
- (2) If discrepancies are occurring, the state shall review and if appropriate, require revisions in state, school district or other public agency policies, procedures, and practices to ensure compliance with Part B of the IDEA.
- (3) Policies, procedures, and practices to be reviewed and, if appropriate, revised include:
- (a) The development and implementation of individualized education programs;
  - (b) The use of behavioral interventions; and
  - (c) Procedural safeguards.

~~((ANNUAL SCHOOL DISTRICT APPLICATION REQUIREMENTS))~~  
SCHOOL DISTRICT ELIGIBILITY

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-580** ~~((Annual applications—Contents.))~~ School district eligibility—Requirements. As a condition to the receipt and expenditure of federal special education funds, a school district or other public agency shall annually submit ~~((an application))~~ a request to the superintendent of public instruction or designee on or before an announced date and conduct its special education and related services program in compliance with the school district and other public agency's state approved plan. The ~~((applications))~~ request shall be made on forms developed and distributed by the superintendent or designee. ~~((Application))~~ Request forms shall include, but not be limited to, the following assurance(s) and types of information:

- (1) Assurance that:

(a) The school district or other public agency is in compliance with the provisions of this chapter and the rules implementing Part B of Individuals with Disabilities Education Act (34 CFR 300.1 et seq.) that may supplement this chapter, including procedural safeguards;

(b) The district or other public agency shall remain in compliance with this chapter and any such supplemental rules for the entire school year; and

(c) The funds applied for shall be expended in compliance with the ~~((application))~~ request, this chapter, and any such supplemental federal rules, including excess cost, non-supplanting, and comparable services;

(2) The information and assurances required by 34 CFR 300.220 through 34 CFR ~~((300.240))~~ 300.250 and any other pertinent federal rules ~~((including 34 CFR 76.650 through 76.662));~~

(3) Identification of the local district or other public agency designee responsible for child identification activities and confidentiality of information;

(4) A description of the policies, procedures and/or activities to be implemented or continued to provide for:

(a) Identification, location and evaluation (childfind) of special education students ~~((not currently receiving special education and related services))~~ including students in private schools;

(b) Confidentiality of personally identifiable information;

(c) Implementation of a system for personnel development;

(d) Involvement of parents of special education students, including the participation of non-English speaking parents;

(e) Participation of special education students with students without disabilities;

(f) Delivery of services to special education students in the least restrictive environment;

(g) Development of individualized education programs for each eligible special education student;

(h) Availability of career development and vocational education programs for special education students;

(i) A description of the numbers and types of special education students receiving special education and related services by placement option within the school district and other public agency's continuum of alternative placements;

(j) A goal ~~((of))~~ and detailed timetable for providing full educational opportunity to all special education students, aged birth through twenty-one;

(k) ~~((A description of the kind of and number of facilities, personnel, and services necessary to meet the school district and other public agency's full educational opportunity goal, including a detailed timetable for reaching that goal;~~

~~((H))~~ Transition of students from Part C to preschool programs;

(l) Private school students;

(m) Performance goals and indicators;

(n) Participation in assessments and reporting results;

(o) Suspension and expulsion; and

(p) A description of the use of funds received under Part B of the Individuals with Disabilities Education Act (34 CFR 300.1 et seq.)~~((; and~~

(m) ~~A description of procedures, with parent/family involvement, for annually evaluating program effectiveness, including individualized education programs).~~

(5) Any other pertinent information requested by the superintendent of public instruction which is necessary for the management of the special education program.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-582 Collaborative ((~~applications~~)) requests.** The superintendent of public instruction may require districts to submit a collaborative ((~~application~~)) request for payments under Part B of the Individuals with Disabilities Education Act if it is determined that a single district or other public agency ((~~application~~)) would be disapproved because:

~~((1) The school district and other public agency's entitlement is less than the seven thousand five hundred dollar minimum required; or~~

~~((2)) The district or other public agency is unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of special education students. Districts that apply for Part B funds in a collaborative ((~~application~~)) request must meet the same minimum requirements as a single district or other public agency applicant. The ((~~application~~)) request must be signed by the superintendent of each participating school district or other public agency. The districts are jointly responsible for implementing programs receiving payments under Part B of the Individuals with Disabilities Education Act. The total amount of funds made available to the affected school districts or other public agencies shall be equal to the sum each would have received separately.~~

#### NEW SECTION

**WAC 392-172-583 Exception for prior policies and procedures.** If a school district or other public agency has on file with the office of superintendent of public instruction policies and procedures that demonstrate that the school district or other public agency meets any requirement under WAC 392-172-580, including any policies and procedures filed under Part B of the IDEA as in effect before June 4, 1997, the office of superintendent of public instruction shall consider the school district or other public agency to have met the requirement for purposes of receiving Part B funds.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-584 Review and amendment process.**

(1) ~~((The steps in the review process include:~~

~~(a) Submission by the district or other public agency of the application to educational service district special education director;~~

~~(b) The educational service district director of special education will review the application using the state checklist; and~~

~~(e) The educational service district director of special education will forward the application to office of the superintendent of public instruction for review by program supervisors using state checklist and for final approval by the superintendent's designee.)) Requests for Part B funding shall be submitted to the office of superintendent of public instruction for review by program supervisors using state checklist and for final approval by the superintendent's designee.~~

(2) Prior to making a final decision on ~~((an application))~~ a request for Part B funding, office of superintendent of public instruction staff shall consider any decision resulting from a hearing under WAC 392-172-350 that is adverse to the district or other public agency involved in the decision.

(3) If a district or other public agency makes a significant amendment to its ~~((application))~~ policies and procedures, the district or other public agency must follow the same steps it took for submitting its original ~~((application))~~ request. The review and approval process shall be the same as that used for an initial request for funds under Part B of the Individuals with Disabilities Education Act.

#### NEW SECTION

**WAC 392-172-585 Amendments to policies and procedures.** (1) Policies and procedures submitted by a school district or other public agency, in accordance with WAC 392-172-580, shall remain in effect until a school district or other public agency submits to the office of superintendent of public instruction modifications that a district or agency decides are necessary.

(2) The office of superintendent of public instruction may require a school district or other public agency to modify its policies and procedures, but only to the extent necessary to ensure a district's or agency's compliance with Part B of the IDEA, if:

(a) After June 4, 1997, the provisions of the IDEA or its implementing regulations are amended;

(b) There is a new interpretation of the IDEA by federal or state courts; or

(c) There is an official finding of noncompliance with federal or state law or regulations.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-588 Availability of ~~((application))~~ information and public participation.** Each district or other public agency shall:

(1) Make ~~((the application))~~ policies and procedures, any evaluations, periodic program plans, and reports relating to the Part B program available for public inspection; and

(2) Provide reasonable opportunities for the participation by teachers, parents of special education students, families ~~((and))~~, other interested agencies, organizations, and individuals in the planning for and operation of the Individuals with Disabilities Education Act Part B program as an integral part of the overall school program; and

(3) At a minimum, a school district and other public agency's procedures must describe the steps taken to:

(a) Make ~~((the application))~~ policies and procedures and any required evaluations, plans, and reports available to the public; and

(b) Involve the required constituency groups, as noted above, in the planning and operation of the Part B program. Parental participation in the individualized education program process does not constitute involvement in the planning and operation of the program.

AMENDATORY SECTION (Amending Order 95-11, filed 10/11/95, effective 11/11/95)

**WAC 392-172-590 Denial of ~~((applications))~~ requests—Opportunity for hearing.** (1) In the event the superintendent of public instruction or designee proposes to deny, in whole or part, the ~~((annual application))~~ request of a district or other public agency for federal special education funds, the district or other public agency shall be provided notice pursuant to RCW 34.05.434 of:

(a) Intent to deny the ~~((application))~~ request of the district or other public agency; and

(b) The school district and other public agency's opportunity for a hearing before the superintendent of public instruction or designee prior to a denial of the ~~((application))~~ request.

(2) The superintendent of public instruction shall provide an opportunity for a hearing before the office of superintendent of public instruction disapproves the ~~((application))~~ request in accordance with the following procedures:

(a) The applicant shall request the hearing within thirty days of the action of the superintendent of public instruction.

(b) Within thirty days after it receives a request, the superintendent of public instruction shall hold a hearing on the record and shall review its action.

(c) No later than ten days after the hearing the office of superintendent of public instruction shall issue its written ruling, including findings of fact and reasons for the ruling. If supported by substantial evidence, findings of fact by the superintendent of public instruction are final.

(3) If the office of superintendent of public instruction determines that its action was contrary to state or federal statutes or regulations that govern the applicable program, the action shall be rescinded.

(4) If the superintendent of public instruction does not rescind its final action after a review, the applicant may appeal to the United States Secretary of Education. The applicant shall file a notice of the appeal with the United States Secretary of Education within twenty days after the applicant has been notified by the superintendent of public instruction of the results of the agency's review.

(5) The superintendent of public instruction shall make available at reasonable times and places to each applicant all records pertaining to any review or appeal an applicant is pursuing under this section, including records of other applicants.

(6) The school district and other public agency's ~~((application))~~ request may be denied, in whole or part, if the district or other public agency fails to request a hearing or the hearing decision upholds the proposed basis for denial.

(7) Any school district or other public agency in receipt of a notice described in this section shall, by means of a public notice, take the measures necessary to bring a pending action pursuant to this section to the attention of the public within its jurisdiction.

**~~((MISCELLANEOUS PROGRAM REQUIREMENTS))~~**

NEW SECTION

**WAC 392-172-595 Records related to grant funds.**

(1) The superintendent of public instruction and districts shall keep records that show:

(a) The amount of funds under the grant;

(b) How the funds were used;

(c) The total cost of the project;

(d) The share of that cost provided from other sources;

and

(e) Other records to facilitate an effective audit.

(2) Records shall be maintained to show program compliance, including records related to the location, evaluation and placement of special education students and the development and implementation of individualized education programs. Program and fiscal information records shall be available to authorized representatives of the office of superintendent of public instruction for the purpose of compliance monitoring under WAC 392-172-504 or auditing under WAC 392-172-512.

(3) Records shall be retained for five years after completion of the activities for which grant funds were used.

**SCHOOL DISTRICT USE OF FUNDS**

NEW SECTION

**WAC 392-172-600 Use of amounts.** The school district or other public agency must have on file with the state information to demonstrate that amounts provided under Part B of the IDEA:

(1) Will be expended in accordance with the applicable provisions of this chapter;

(2) Will be used only to pay the excess costs of providing special education and related services to special education students, consistent with this chapter; and

(3) Will be used to supplement state, local and other federal funds and not to supplant those funds.

NEW SECTION

**WAC 392-172-605 Use of federal funds for preschool children.** In general, federal Part B funds are to be used for eligible special education students birth through twenty-one years of age. Federal preschool funds under section 619 may only be used for eligible special education children aged three through five years.

PROPOSED

NEW SECTION

**WAC 392-172-610 Maintenance of effort.** (1) Except as provided under WAC 392-172-615 and 392-172-620, funds provided to school districts or other public agencies under Part B of the IDEA may not be used to reduce the level of expenditures for the education of special education students made by it from local funds below the level of those expenditures for the preceding fiscal year.

(2) Except as provided in subsection (3) of this section, the office of superintendent of public instruction determines that a school district complies with this section for purposes of establishing the school district's eligibility for an award for a fiscal year if the district budgets, for the education of special education students, at least the same total or per-capita amount from either of the following sources as the district spent for that purpose from the same source for the most recent prior year for which information is available:

- (a) Local funds only.
- (b) The combination of state and local funds.

(3) A district that relies on subsection (2)(a) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of special education students in that year is at least the same, either in total or per capita, as the amount it spent for that purpose in:

(a) The most recent fiscal year for which information is available, if that year is, or is before, the first fiscal year beginning on or after July 1, 1997; or

(b) If later, the most recent fiscal year for which information is available and the standard in subsection (2)(a) of this section was used to establish its compliance with this section.

(4) The office of superintendent of public instruction may not consider any expenditures made from funds provided by the federal government for which the office of superintendent of public instruction is required to account to the federal government or for which the district is required to account to the federal government directly or through the office of superintendent of public instruction in determining a district's compliance with the requirement of this section.

NEW SECTION

**WAC 392-172-615 Exceptions to maintenance of effort.** A school district or other public agency may reduce the level of expenditures made by it under Part B of the IDEA below the level of those expenditures for the preceding fiscal year if the reduction is attributable to:

(1) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel, who are replaced by qualified, lower-salaried staff;

(2) A decrease in the enrollment of special education students;

(3) The termination of the obligation of the district or agency, consistent with this chapter, to provide a program of special education to a particular special education student that is an exceptionally costly program as determined by the state, because the student:

- (a) Has left the jurisdiction of the district or agency;

(b) Has reached the age at which the obligation of the district or agency to provide a free appropriate public education to the student has terminated; or

(c) No longer needs the program of special education.

(4) The termination of costly expenditures for long-term purchases such as the acquisition of equipment or the construction of school facilities.

(5) In order for a school district to invoke the exception in subsection (1) of this section, the district must ensure that those voluntary retirements or resignations and replacements are in full conformity with:

(a) Existing school board policies in the agency;

(b) The applicable collective bargaining agreement in effect at that time; and

(c) Applicable state statutes.

NEW SECTION

**WAC 392-172-620 Treatment of federal funds in certain fiscal years.** (1) For any fiscal year in which federal funds for IDEA-B exceeds \$4.1 billion dollars, a school district or other public agency may treat as local funds up to twenty percent of the amount of funds it receives under Part B of the IDEA that exceeds the amount it received under Part B of the IDEA for the previous fiscal year. The requirements regarding supplanting and maintenance of effort do not apply with respect to the amount that may be treated as local funds under this section.

(2) If the state determines that a school district or other public agency is not meeting the requirements of this chapter, the state may prohibit the district or agency from treating funds received under Part B of the IDEA as local funds under this section for any fiscal year, but only if it is authorized to do so by the state constitution or a state statute.

NEW SECTION

**WAC 392-172-625 School-wide programs under title I of the ESEA.** (1) A school district or other agency may use funds received under Part B of the IDEA for any fiscal year to carry out a school-wide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount used in any school-wide program may not exceed:

(a) The amount received by the district or agency under Part B for that fiscal year; divided by the number of special education students in the jurisdiction; multiplied by

(b) The number of special education students participating in the school-wide program.

(2) The funds described in subsection (1) of this section may be used without regard to WAC 392-172-600(1).

(3) The funds described in subsection (1) of this section must be considered as federal Part B funds for purposes of calculating excess cost and supplanting.

(4) Except as provided in subsections (2) and (3) of this section, all other requirements of Part B must be met, including ensuring that special education students in school-wide program schools:

- (a) Receive services in accordance with a properly developed IEP; and

(b) Are afforded all of the rights and services guaranteed to special education students under the IDEA.

#### NEW SECTION

**WAC 392-172-630 Permissive use of funds.** (1) Funds provided to a school district or other public agency under the IDEA-B may be used for the costs of special education and related services and supplementary aids and services provided in a regular class or other education related setting to a special education student in accordance with the individualized education program of the student, even if one or more nondisabled students benefit from these services; and/or

(2) To develop and implement a fully integrated and coordinated services system in accordance with WAC 392-172-635.

#### NEW SECTION

**WAC 392-172-635 Coordinated services system.** (1) A school district or other public agency may not use more than five percent of the amount the district or agency receives under Part B of the IDEA for any fiscal year, in combination with other amounts (which must include amounts other than education funds), to develop and implement a coordinated services system designed to improve results for students and families, including special education students and their families.

(2) In implementing a coordinated services system under this section, a school district or other public agency may carry out activities that include:

(a) Improving the effectiveness and efficiency of service delivery, including developing strategies that promote accountability for results;

(b) Service coordination and case management that facilitate the linkage of individualized education programs under Part B of the IDEA and individualized family services plans under Part C of the IDEA with individualized service plans under multiple federal and state programs, such as Title I of the Rehabilitation Act of 1973 (vocational rehabilitation), Title XIX of the Social Security Act (Medicaid) and Title XVI of the Social Security Act (supplementary security income);

(c) Developing and implementing interagency financing strategies for the provision of education, health, mental health, and social services, including transition services and related services under the IDEA; and

(d) Interagency personnel development for individuals working on coordinated services.

(3) If a school district or other public agency is carrying out a coordinated services project under Title XI of the Elementary and Secondary Education Act of 1965 and a coordinated project under Part B of the IDEA in the same schools, the district or agency shall use the amounts under this section in accordance with the requirements of that title.

## SCHOOL-BASED IMPROVEMENT PLAN

### NEW SECTION

#### **WAC 392-172-640 School-based improvement plan.**

(1) The state may grant authority to a school district or other public agency to permit a public school (through a school-based standing panel) to design, implement, and evaluate a school-based improvement plan for a period not to exceed three years.

(2) A school district or other public agency may use Part B funds to permit a public school within its jurisdiction to implement a school-based improvement plan. The plan must be consistent with the purposes described in section 651(b) of the IDEA (state program improvement grants). These purposes include reforming and improving state systems for providing educational, early intervention, and transitional services. The systems involved include professional development, technical assistance, and the dissemination of knowledge about best practices to improve results for students with disabilities.

(3) The plan must be designed to improve results for all special education students and, as appropriate, for other students consistent with WAC 392-172-630.

(4) If the state grants the authority to a school district or other public agency to develop a plan, the district or agency must have the sole responsibility of oversight of all activities relating to the design, implementation, and evaluation of any school-based improvement plan that a public school is permitted to design under this section.

### NEW SECTION

**WAC 392-172-645 Plan requirements.** (1) A school-based improvement plan described in WAC 392-172-640 is for those students who attend the school for which the plan is designed and implemented.

(2) The plan must:

(a) Be designed, evaluated, and as appropriate, implemented by a school-based standing panel established in accordance with WAC 392-172-650;

(b) Include goals and measurable indicators to assess the progress of the public school in meeting these goals; and

(c) Ensure that all special education students receive the services described in their individualized education programs.

### NEW SECTION

**WAC 392-172-650 School district responsibilities.** A school district or other public agency that is granted authority under WAC 392-172-640 to develop a plan shall:

(1) Select each school under the jurisdiction of the district or agency that is eligible to design, implement, and evaluate the plan;

(2) Require each school selected in accordance with criteria established by the district or agency to establish a school-based standing panel to carry out the duties described in WAC 392-172-645;

(3) Establish:

PROPOSED

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(a) Criteria that must be used by the district or agency in the selection of an eligible school;

(b) Criteria that must be used by an eligible public school in the establishment of a school-based standing panel to carry out the duties described in WAC 392-172-645 that ensure that the membership of the panel reflects the diversity of the community in which the public school is located and includes, at a minimum:

(i) Parents of special education students who attend a public school, including parents of special education students from unserved and underserved populations, as appropriate;

(ii) Special education and general education teachers of public schools;

(iii) Special education and general education administrators, or the designee of those administrators, of those public schools; and

(iv) Related services providers who are responsible for providing services to the special education students who attend those public schools.

(c) Criteria that must be used by the district or agency with respect to the distribution of funds under Part B of the IDEA to carry out this section.

(4) Disseminate the criteria to local school district personnel and local parent organizations within the jurisdiction of the district or agency;

(5) Require a public school that desires to design, implement, and evaluate a school-based improvement plan to submit an application at the time, in the manner and accompanied by the information, that the district or agency shall reasonably require; and

(6) Establish procedures for approval by the district or agency of a school-based improvement plan designed under Part B of the IDEA.

**NEW SECTION**

**WAC 392-172-655 Limitation.** A school-based improvement plan may be submitted to a district or agency, for approval only if a consensus with respect to any matter relating to the design, implementation, or evaluation of the goals of the plan is reached by the school-based standing panel that designed the plan.

**NEW SECTION**

**WAC 392-172-660 Additional requirements.** (1) In carrying out the requirements of WAC 392-172-640 et seq., a school district or other public agency shall ensure that the parents of special education students are involved in the design, evaluation, or if appropriate, implementation of school-based improvement plans in accordance with this section.

(2) A district or agency may approve a school-based improvement plan of a public school within its jurisdiction for a period of three years if:

(a) The approval is consistent with the policies, procedures, and practices established by the district or agency in accordance with WAC 392-172-640 et seq.; and

(b) A majority of the parents of students who are members of the school-based standing panel and a majority of

other members of the school-based standing panel that designed the plan, agree in writing to the plan.

**NEW SECTION**

**WAC 392-172-665 Extension of plan.** If a public school within the jurisdiction of a school district or other public agency meets the applicable requirements and criteria described in this section, at the expiration of the three-year approval period, the district or agency may approve a school-based improvement plan of the school for an additional three-year period.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 392-172-060	Definition—Transition services.
WAC 392-172-062	Definition of terms related to transition services.
WAC 392-172-110	Communication disordered students—Evaluation.
WAC 392-172-152	Summary analysis of evaluation data.
WAC 392-172-154	School district or other public agency decision on eligibility.
WAC 392-172-168	Required student participation—Transition.
WAC 392-172-178	Preschool services.
WAC 392-172-206	Facilities.
WAC 392-172-214	Administration of medication.
WAC 392-172-216	Choice and running start programs.
WAC 392-172-228	Out-of-state agencies.
WAC 392-172-234	School district or other public agency responsibility for private school special education students.
WAC 392-172-236	Determination of needs, numbers of students and types of services.
WAC 392-172-320	Authority.
WAC 392-172-322	Purpose.
WAC 392-172-340	Complainant right to appeal.
WAC 392-172-346	Appeal to the secretary of education in complaints against the superintendent of public instruction.



WAC 392-172-358	Prospective application to amendments in <i>Washington Administrative Code</i> affecting hearings.	Preproposal statement of inquiry was filed as WSR 99-12-098.
WAC 392-172-372	Disciplinary exclusion—Procedures, continuing district or other public agency responsibility.	Title of Rule: Chapter 162-12 WAC, Preemployment inquiries, chapter 162-18 WAC, Corrective employment programs, chapter 162-20 WAC, Age discrimination in public employment, chapter 162-28 WAC, Public education, and chapter 162-40 WAC, Credit transactions.
WAC 392-172-374	Disciplinary exclusion—Determination of disability relatedness and/or appropriateness of program.	Purpose: To adopt improvements to current commission rule under Executive Order 97-02 relating to clarity, need, consistency, effectiveness, cost, coordination, and fairness.
WAC 392-172-376	Disciplinary exclusion—Definition significant change of placement.	Statutory Authority for Adoption: RCW 49.60.120(3). Statute Being Implemented: Chapter 49.60 RCW.
WAC 392-172-378	Disciplinary exclusion—Determination of what constitutes a pattern of exclusion.	Summary: Chapter 162-12 WAC, Preemployment inquiry guide. WAC 162-12-100 Purpose. This amendment clarifies the general purpose of the chapter for readability. A definition of "protected status" identical to that found in chapter 162-16 WAC (Employment) is added for clarity.
WAC 392-172-380	Emergency exclusion—Dangerous students.	WAC 162-12-120 General approach. This amendment clarifies sentence structure and wording for readability. WAC 162-12-130 Discriminatory inquiries are prohibited. This amendment clarifies sentence structure and wording for readability. WAC 162-12-135 Bona fide occupational qualifications. This amendment updates a reference to chapter 162-16 WAC, that provides guidance on bona fide occupational qualifications. WAC 162-12-140 Preemployment inquiries. This amendment clarifies sentence structure and wording for readability. Examples are updated and typographical errors are corrected. WAC 162-12-150 Required inquiries. This amendment clarifies sentence structure and wording for readability. WAC 162-12-160 Data for legitimate purposes. This amendment clarifies sentence structure and wording for readability. WAC 162-12-170 Conditions for inquiries to applicants. This amendment clarifies sentence structure and wording for readability and is updated to reflect current agency practice. WAC 162-12-180 Post employment records. This amendment clarifies sentence structure and wording for readability.
WAC 392-172-382	Disciplinary exclusion—Bringing a firearm to school.	Chapter 162-18 WAC, Corrective employment programs. Repeal chapter. WAC 162-18-010 Corrective employment program defined, 162-18-020 Purpose and policy, 162-18-030 Corrective employment programs are lawful, 162-18-040 Permissible components of program, 162-18-050 When programs may be used, 162-18-060 Termination of programs, 162-18-070 Voluntary programs recommended, 162-18-080 Commission approval of voluntary programs, 162-18-090 Job orders specifying race, creed, color, national origin, sex, marital status, handicap, or age, and 162-18-100 Construction—Relation to preemployment inquiry guide. This proposal repeals these sections as unnecessary.
WAC 392-172-554	Scope of system.	Chapter 162-20 WAC, Age discrimination in public employment. WAC 162-20-010 Purpose. This amendment clarifies sentence structure and wording for readability. WAC 162-20-020 Statutes interpreted. This amendment deletes unnecessary repetition of statutory text and clarifies sentence structure and wording for readability. WAC 162-20-030 Jurisdiction of commission. This amendment clarifies sentence structure and wording for readability.
WAC 392-172-556	Establishment of a comprehensive system of personnel development advisory committee.	Chapter 162-28 WAC, Public schools—Equal education—Equal rights—National origin minority group children. WAC 162-28-030 Schools are places of public accommoda-
WAC 392-172-558	Annual needs assessment.	
WAC 392-172-560	Data system on personnel and personnel development.	
WAC 392-172-562	Other sources of annual needs assessment data.	
WAC 392-172-564	Report of current and projected personnel needs.	
WAC 392-172-566	Administration of continuing education.	
WAC 392-172-568	Personnel development plan.	
WAC 392-172-570	Provision of technical assistance.	
WAC 392-172-592	Records related to grant funds.	
WAC 392-172-594	Program coordination.	

**WSR 99-17-102****PROPOSED RULES****HUMAN RIGHTS COMMISSION**

[Filed August 18, 1999, 8:19 a.m.]

Original Notice.

tion. This amendment clarifies sentence structure and wording for readability and defines "protected status" for clarity. WAC 162-28-040 English language limitations and national origin discrimination in K-12 grades. This amendment clarifies sentence structure and wording for readability.

Chapter 162-40 WAC, Credit transactions. WAC 162-40-010 Scope of chapter. This amendment clarifies sentence structure and wording for readability. WAC 162-40-021 Coordination with federal law. This amendment clarifies sentence structure and wording for readability. WAC 162-40-031 Commission review of forms, practices, and procedures. This proposal repeals this section as unnecessary. WAC 162-40-041 Definitions. This amendment eliminates unnecessary or obsolete text and clarifies sentence structure and wording for readability. WAC 162-40-051 General rule prohibiting discrimination. This proposal repeals this section as unnecessary. WAC 162-40-055 Rules concerning applications. This proposed new section consolidates provisions related to credit applications. WAC 162-40-061 Discouraging applications. This proposal repeals this section as unnecessary. WAC 162-40-065 Rules concerning evaluation of applications. This proposed new section consolidates provisions relating to evaluation of applications. WAC 162-40-071 General rule concerning requests for information. This proposal repeals this section as unnecessary. WAC 162-40-075 Rules concerning extensions of credit. This proposed new section consolidates provisions related to extensions of credit. WAC 162-40-081 Request for designation of membership in certain protected classes, 162-40-091 Other information a creditor may not request, 162-40-101 Information about a spouse or former spouse, 162-40-111 Application forms: Special state requirements, 162-40-121 General rule concerning use of information, 162-40-131 Specific rules concerning use of information, 162-40-141 Opening accounts, 162-40-151 Action concerning existing open end accounts and 162-40-161 Signature of spouse or other person. This proposal repeals these sections as unnecessary. WAC 162-40-171 Notifications. This amendment eliminates unnecessary or obsolete text and clarifies sentence structure and wording for readability. WAC 162-40-181 Furnishing of credit information, this amendment eliminates unnecessary or obsolete text and clarifies sentence structure and wording for readability. WAC 162-40-191 General rule. This amendment updates existing language to reflect statutory changes to covered protected statuses since 1977. WAC 162-40-201 Rules concerning credit files. This amendment clarifies sentence structure and wording for readability. WAC 162-40-211 Record retention. This amendment eliminates unnecessary or obsolete text and clarifies sentence structure and wording for readability. WAC 162-40-221 Rules of construction. This amendment clarifies sentence structure and wording for readability. WAC 162-40-231 Exemption for special purpose credit program. This amendment clarifies sentence structure and wording for readability. WAC 162-40-241 Special treatment for certain classes of transactions. This proposal repeals this section as unnecessary. WAC 162-40-251 Remedies. This amendment clarifies sentence structure and wording for readability and is updated to reflect current commission practice.

Reasons Supporting Proposal: See Summary above.

Name of Agency Personnel Responsible for Drafting: Heriberto Ruiz, Marilyn Akita, 1511 Third Avenue, Suite 921, Seattle, WA 98101, (206) 464-6505, (206) 464-6655, Implementation and Enforcement: Susan J. Jordan, P.O. Box 42490, Olympia, WA 98504-2490, (360) 753-2558.

Name of Proponent: Washington State Human Rights Commission, governmental.

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

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

Proposal Changes the Following Existing Rules: 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 that already exist 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 September 23, 1999, 8:00 p.m. - 9:00 p.m., at Clark College, Geiser Hall Central Conference Room, 1800 East McLoughlin Boulevard, Vancouver, WA; and on October 15, 1999, 12:00 noon - 1:30 p.m., at Melbourne Tower, 3rd Floor Conference Room, 1511 Third Avenue, Room 314, Seattle, WA 98101.

Assistance for Persons with Disabilities: Contact Tanya Calahan by September 15, 1999, TDD (360) 300-7525, or (360) 753-4876.

Submit Written Comments to: Martin D. Casey, Legislative and Policy Coordinator, P.O. Box 42490, Olympia, WA 98504-2490, fax (360) 586-2282, by October 15, 1999.

Date of Intended Adoption: December 17, 1999.

August 17, 1999

Sue J. Jordan

Executive Director

AMENDATORY SECTION (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

**WAC 162-12-100 Purpose.** (1) These regulations (~~are intended to~~) carry out (~~the purposes of~~) the law against discrimination as stated generally in RCW 49.60.010 and 49.60.030, and (~~to inform employers, employment agencies, and the public of the commission's interpretation of~~) interpret RCW 49.60.180 and 49.60.200 which declare certain preemployment inquiries to be unfair practices.

(2) The commission (~~will~~) generally follows (~~in its interpretation of statutory provisions in~~) chapter 49.60 RCW and (~~rules contained in Title 162 WAC,~~) federal court decisions (~~interpreting~~) that interpret comparable statutes and rules. The commission will not follow (~~such~~) federal precedents (~~however, where it believes that~~) when a different interpretation of state statutes and rules will better carry out the purposes of chapter 49.60 RCW.

(3) This regulation cannot cover every question (~~which~~) that might arise in connection with inquiries prior

to employment. The commission expects that in most cases these rules, either directly or by analogy, will guide those who are covered by the law. ~~((Employers and employment agencies that have questions are invited to call the commission's staff for advice and assistance, or, if necessary, to petition the commission for a declaratory ruling under RCW 34.05.240 and WAC 162-08-700 concerning the application of the law to particular facts.))~~

(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).

AMENDATORY SECTION (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

WAC 162-12-120 General approach. (1) Inquiries ~~((which would))~~ that convey ~~((the impression))~~ to a reasonable person that applicants in a protected class will be discriminated against are prohibited whether or not they are ~~((made in connection with))~~ connected to a discriminatory purpose.

(2) The commission recognizes the legitimate interests of employers and employment agencies with respect to ~~((the protected class status of applicants which))~~ making preemployment inquiries that are consistent with the purpose of the law against discrimination, or where required by government or to carry out an employer's policy of nondiscrimination. ~~((However, the commission also recognizes that))~~ In the absence of safeguards, ~~((the))~~ preemployment inquiries or records of ((race, sex, etc.)) applicants' protected status can be misused for discriminatory purposes. ~~((To address this conflict, the commission has established fixed))~~ The rules in WAC 162-12-140 ~~((which characterize particular preemployment inquiries as))~~ identify common fair ((or) and unfair ((in such a way that employers and employment agencies who intend to make legitimate use of such data have maximum freedom to do so without conveying)) preemployment inquiries so that employers and employment agencies do not convey the impression that ((protected class)) applicants will be discriminated against based on protected status.

AMENDATORY SECTION (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

WAC 162-12-130 Discriminatory inquiries ~~((for purposes of discrimination))~~ are prohibited. ~~((It is an unfair practice to make))~~ Any preemployment inquiry or ((keep)) the keeping of any record of ((race, creed, color, national origin, age, sex, marital status, or disability,)) protected status before ((, during, or after)) employment ((,) for ((the purpose of discriminating on these grounds,)) a discriminatory purpose is prohibited and may be evidence of an unfair practice when connected to the applicant's protected status unless the particular quality inquired about is a bona fide occupational qualification.

AMENDATORY SECTION (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

WAC 162-12-135 Bona fide occupational qualifications. ~~((The statutes construed in this))~~ Chapter 49.60 RCW recognizes an exception to unfair preemployment inquiries when the inquiries are based upon a "bona fide occupational qualification." ~~((For guidance on the meaning of that term see WAC 162-16-020. The provisions of this preemployment guide do not apply where age, sex, race, creed, color, marital status, national origin, or freedom from a disability is a bona fide occupational qualification and is identified as such to the applicant or other person. See WAC 162-16-040.))~~ (See WAC 162-16-240.)

AMENDATORY SECTION (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

WAC 162-12-140 Preemployment inquiries. (1) The following ~~((chart of))~~ examples of fair and unfair ((inquiry rules)) inquiries apply when made in reference to job application forms, preemployment interviews, or any other type of inquiry made of ~~((persons seeking to be employed))~~ job applicants. The rules also apply to inquiries made to persons other than an applicant and to inquiries made by third parties such as a credit reporting service. The rules do not apply after a person is employed. See WAC 162-12-180.

(2) Employers and employment agencies shall ~~((observe))~~ comply with these ~~((preemployment))~~ rules except where one or more of the following conditions exist:

(a) When there is a "bona fide occupational qualification," ~~((as explained in chapter 162-16 WAC.))~~

(b) A voluntary affirmative action plan ~~((to address past or current discriminatory conditions or an affirmative action plan))~~ that is in compliance with the requirements of a government agency or other competent authority such as a court, and if made in a manner provided in WAC 162-12-160 and 162-12-170.

(c) A ~~((contrary))~~ requirement of federal law or regulation, as explained in WAC 162-12-150. ~~((If one or more of the above conditions apply, the employer or employment agency may use appropriate inquiries that would otherwise be unfair. Inquiries made under these exceptions must always be accompanied by a written explanation of their purpose. See WAC 162-12-135, 162-12-170, and 162-16-040.))~~

If one or more of the above conditions apply, the inquiries of employers and employment agencies must be accompanied by a written explanation of their purpose. See WAC 162-12-135, 162-12-160 and 162-12-170.

(3) The following examples ~~((in the following chart))~~ of fair and unfair preemployment inquiries ~~((are intended to))~~ define what is an unfair practice under RCW 49.60.180(4) and 49.60.200. These examples, however, are not all inclusive. All preemployment inquiries ~~((which))~~ that unnecessarily elicit the ~~((race, sex, or membership in other))~~ protected ~~((classes))~~ status of a job applicant are prohibited by these statutes irrespective of whether or not the particular inquiry is covered in this regulation.

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PROPOSED

SUBJECT	FAIR PREEMPLOYMENT INQUIRES	UNFAIR PREEMPLOYMENT INQUIRES	SUBJECT	FAIR PREEMPLOYMENT INQUIRES	UNFAIR PREEMPLOYMENT INQUIRES
a. Age	Inquiries as to birth date and proof of true age are permitted by RCW 49.44.090.	Any inquiry not in compliance with RCW 49.44.090 ( <del>which</del> ) <u>that</u> implies a preference for persons under 40 years of age.	d. Convictions (see also Arrests)	Statistical studies on convictions and imprisonment have shown a disparate impact on some racial and ethnic minority groups. Inquiries concerning convictions (or imprisonment) will be considered to be justified by business ( <del>need</del> ) <u>necessity</u> if the crimes inquired about relate reasonably to the job duties, and if such convictions (or release from prison) occurred within the last ten years. Law enforcement agencies, state agencies, school districts, businesses and other organizations that have a direct responsibility for the supervision, care, or treatment of children, mentally ill persons, developmentally disabled persons, or other vulnerable adults are exempt from this rule. See RCW 43.20A.710; 43.43.830 through 43.43.842; and RCW 72.23.035.	Inquiries concerning convictions and imprisonment which either do not relate reasonably to job duties or did not occur within the last ten years will not be considered justified by business necessity.
(For age discrimination, RCW 49.44.090 must be read in conjunction with RCW 49.60.180 and 49.60.200. RCW 49.44.090 limits age discrimination coverage to persons 40 years of age and older, and makes other limitations and exceptions to the age discrimination law.)					
b. Arrests (see also Convictions)	Because statistical studies regarding arrests have shown a disparate impact on some racial and ethnic minorities, and an arrest by itself is not a reliable indication of criminal behavior, inquiries concerning arrests must include whether charges are still pending, have been dismissed, or led to conviction of a crime involving behavior ( <del>which</del> ) <u>that</u> would adversely affect job performance, and the arrest occurred within the last ten years. Exempt from this rule are law enforcement agencies and state agencies, school districts, businesses and other organizations that have a direct responsibility for the supervision, care, or treatment of children, mentally ill persons, developmentally disabled persons, or other vulnerable adults. See RCW 43.20A.710; 43.43.830 through 43.43.842; and RCW 72.23.035.	Any inquiry ( <del>which</del> ) <u>that</u> does not meet the requirements for fair preemployment inquiries.	e. Family	Whether applicant can meet specified work schedules or has activities, commitments or responsibilities that may prevent him or her from meeting work attendance requirements.	Specific inquiries concerning spouse, spouse's employment or salary, children, child care ( <del>arrangements</del> ) <u>arrangements</u> , or dependents.
c. Citizenship	Whether applicant is prevented from lawfully becoming employed in this country because of visa or immigration status. Whether applicant can provide proof of a legal right to work in the United States after hire.	Whether applicant is citizen. Requirement before ( <del>hiring</del> ) <u>job offer</u> that applicant present birth certificate, naturalization or baptismal divulge applicant's lineage, ancestry, national origin, descent, or birth place.	f. Disability	Whether applicant is able to perform the essential functions of the job for which the applicant is applying, with or without reasonable accommodation. Inquiries as to how the applicant could demonstrate or describe the performance of these specific job functions with or without reasonable accommodation. Note: Employers are encouraged to include a statement on the application form apprising applicants that if they require accommodation to complete the application, testing or interview process, to please contact the employment office, personnel or human resources department or other office as may be able to assist them.	Inquiries about the nature, severity or extent of a disability or whether the applicant requires reasonable accommodation <u>prior to a conditional job offer</u> . Whether applicant has applied for or received worker's compensation. Also any inquiry that is not job related or consistent with business necessity.

SUBJECT	FAIR PREEMPLOYMENT INQUIRES	UNFAIR PREEMPLOYMENT INQUIRES
g. Height and Weight	Being of a certain height or weight will not be considered to be a job requirement unless the employer can show that all or substantially all employees who fail to meet the requirement would be unable to perform the job in question with reasonable safety and efficiency.	Any inquiry which is not based on actual job requirements and not consistent with business necessity.
h. Marital Status (see also Name and Family)	None.	( ) Mr. ( ) Mrs. ( ) Miss ( ) Ms. Whether the applicant is married, single, divorced, separated, engaged, widowed, etc.
i. Military	Inquiries concerning education, training, or work experience in the armed forces of the United States.	Type or condition of military discharge. Applicant's experience in military other than U.S. armed forces. Request for discharge papers.
j. Name	Whether applicant has worked for this company or another employer under a different name and, if so, what name. Name under which applicant is known to references if different from present name.	Inquiry into original name where it has been ( <del>(e)hanged</del> ) changed by court order or marriage. Inquiries about a name ( <del>(which)) that</del> would divulge marital status, lineage, ancestry, national origin or descent.
k. National Origin	Inquiries into applicant's ability to read, write and speak foreign languages, when such inquiries are based on job requirements.	Inquiries into applicant's lineage, ancestry, national origin, descent, birthplace, or mother tongue. National origin of applicant's parents or spouse.
l. Organizations	Inquiry into organization memberships, excluding any organization the name or character of which indicates the race, color, creed, sex, marital status, religion, or national origin or ancestry of its members.	Requirement that applicant list all organizations, clubs, societies, and lodges to which he or she belongs.
m. Photographs	May be requested <i>after</i> hiring for identification purposes.	Request that applicant submit a photograph, mandatorily or optionally, at any time before hiring.

SUBJECT	FAIR PREEMPLOYMENT INQUIRES	UNFAIR PREEMPLOYMENT INQUIRES
n. Pregnancy (see also Disability)	Inquiries as to a duration of stay on job or anticipated absences which are made to males and females alike.	All questions as to pregnancy, and medical history concerning pregnancy and related matters.
o. Race or Color	None. See WAC 162-12-150, 162-12-160, and 162-12-170.	Any inquiry concerning race or color of skin, hair, eyes, etc., not specifically permitted by WAC 162-12-150, 162-12-160, and 162-12-170.
p. Relatives	Name of applicant's relatives already employed by this company or by any competitor.	Any other inquiry regarding marital status, identity of one's spouse, or spouse's occupation are considered unfair practices in accordance with WAC 162-12-150.
(While the law does not prohibit company policies governing the employment of relatives, any policy ( <del>(which)) that</del> has the effect of disadvantaging minorities, women, married couples, or other protected classes, would be in violation of the law unless it is shown to serve a necessary business purpose.) See WAC 162-12-150, 162-12-160, and 162-12-170.		
q. Religion or Creed	None.	Inquiries concerning applicant's religious preference, denomination, religious affiliations, church, parish, pastor, or religious holidays observed.
r. Residence	Inquiries about address to the extent needed to facilitate contacting the applicant.	Names or relationship of persons with whom applicant resides. Whether applicant owns or rents own home.
s. Sex	None.	Any inquiry concerning gender is prohibited.

**AMENDATORY SECTION** (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

**WAC 162-12-150 Required inquiries (~~(required by United States)~~). (~~(Because of the supremacy of federal law over state law,)~~) An employer or employment agency may ask (~~(applicants to state their race, creed, color, age, sex, marital status, disability, or national origin)~~) applicants about protected status to the extent that the employer is required to do so by the Washington state or the United States government or a federal or state court decree. When the applicant data are required by the (~~(United States)~~) court or government (~~(asks only for data on race, creed, color, national origin, age, marital status, disability, or sex of applicants)~~), the information shall be acquired by means other than inquiry to the applicants, unless the (~~(United States)~~) court or government expressly requires the inquiries or unless the inquiries are made in conformity with WAC 162-12-160 and 162-12-170.**

PROPOSED

AMENDATORY SECTION (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

**WAC 162-12-160 Data for legitimate purposes.** (1) ~~(It is not an unfair practice to)~~ An employer or employment agency may make inquiries as to race, sex, national origin, or disability for purposes of affirmative action ~~((to correct or prevent discrimination against persons in protected classes))~~, when the inquiries are made in the manner provided in WAC 162-12-170.

(2) Data on ~~((race, creed, color, national origin, sex, age, disability, or marital))~~ protected status shall not be recorded on any record ~~((which))~~ that is kept in the applicant's pre-employment file, nor shall such data be kept in any other place or form where it is available to those who process the application. Application records ~~((which))~~ that identify the ~~((race, etc.))~~ protected status of a particular person shall be kept confidential, except to the extent necessary to implement an affirmative action program as authorized by law, to permit the compilation of statistics, and to permit verification of the statistics by top management of the employer, or by the Washington state human rights commission ~~((or other concerned governmental agencies))~~.

AMENDATORY SECTION (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

**WAC 162-12-170 Conditions for inquiries to applicants.** An employer or employment agency may ask an applicant to voluntarily state his or her ~~((race, creed, color, national origin, sex, marital status, age, or disability))~~ protected status for ~~((a nondiscriminatory purpose, and then))~~ reasons stated in WAC 162-12-150 and 162-12-160 only if it has satisfied all of the following conditions:

(1) The employer shall have adopted a written equal employment policy which authorizes the inquiries as a means of monitoring its enforcement, and which sets out detailed procedures for keeping the responses confidential and separate from other records relating to applicants, in fulfillment of the requirements of WAC 162-12-160(2); and

(2) The form on which the question appears contains statements clearly informing the applicant the information is strictly voluntary, the reasons for asking for the information, the uses to which the information will be put, and the safeguards ~~((which))~~ that will prevent use of the information by those who will process the application ~~((and~~

~~(3) The written policy and proposed form shall have been submitted to and have been approved by the executive director of the commission or his or her designate, or they have been required or approved by an agency of the United States government which has jurisdiction to do so)).~~

AMENDATORY SECTION (Amending WSR 96-21-054, filed 10/14/96, effective 11/14/96)

**WAC 162-12-180 Post employment records.** RCW 49.60.180 and 49.60.200 and these rules do not prohibit making or keeping records of the ~~((race, creed, color, national origin, sex, marital status, disability or age))~~ protected status of persons after they are employed, unless the records are used

for the purpose of discrimination. To prevent improper use, records of an employee's ~~((race, color, or disability))~~ protected status must be ~~((kept separate from the employee's personnel file))~~ maintained in a manner accessible only on a need to know basis.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 162-18-010 Corrective employment program defined.
- WAC 162-18-020 Purpose and policy.
- WAC 162-18-030 Corrective employment programs are lawful.
- WAC 162-18-040 Permissible components of program.
- WAC 162-18-050 When programs may be used.
- WAC 162-18-060 Termination of programs.
- WAC 162-18-070 Voluntary programs recommended.
- WAC 162-18-080 Commission approval of voluntary programs.
- WAC 162-18-090 Job orders specifying race, creed, color, national origin, sex, marital status, handicap or age.
- WAC 162-18-100 Construction—Relation to preemployment inquiry guide.

AMENDATORY SECTION (Amending Order 9, filed 9/23/71)

**WAC 162-20-010 Purpose.** These rules ~~((are adopted for the purpose of clarifying the jurisdiction of the Washington state human rights commission in enforcement of))~~ clarify the age discrimination provisions of RCW 49.60.180 and 49.44.090, with respect to candidates for public employment.

AMENDATORY SECTION (Amending Order 9, filed 9/23/71)

**WAC 162-20-020 Statutes interpreted.** Section 1, chapter 100, Laws of 1961, amended RCW 49.60.180 to add discrimination because of age ~~((;))~~ as an unfair practice of employers. ~~((RCW 49.60.180 is part of the law against discrimination and originally covered only discrimination because of race, creed, color or national origin.~~

~~RCW 49.60.010, which gives the human rights commission general jurisdiction and powers "... with respect to elimination and prevention of discrimination in employment ... because of race, creed, color, or national origin ..." was not amended.~~

PROPOSED

~~RCW 49.60.120, which sets out the powers and duties of the commission, was not amended. It still reads that the commission has the power and duty to "... receive, investigate and pass upon complaints alleging unfair practices as defined in this chapter because of race, creed, color, or national origin."~~)

~~RCW 49.44.090 (a new section originating in chapter 100, Laws of 1961,) reads in part:~~

~~"...  
"Nothing contained in this section or in RCW 49.60.180 as to age shall be construed . . . ; nor shall anything in this section or in RCW 49.60.180 be deemed to preclude . . . ; nor shall this section be construed . . . as superseding any law fixing or authorizing the establishment of reasonable minimum or maximum age limits with respect to candidates for certain positions in public employment which are of such a nature as to require extraordinary physical effort, or which for other reasons warrant consideration of age factors."~~

AMENDATORY SECTION (Amending Order 9, filed 9/23/71)

**WAC 162-20-030 Jurisdiction of commission.** The human rights commission shall not exercise jurisdiction over any alleged unfair practice as to age (over forty) when (~~it appears that~~) the respondent is acting under a law, ordinance or valid rule fixing or authorizing the establishment of reasonable minimum or maximum age limits with respect to candidates for public employment.

AMENDATORY SECTION (Amending Order 17, filed 6/28/74)

**WAC 162-28-030 Schools are places of public accommodation.** (1) All public and private schools and other educational facilities in the state of Washington, (~~public or private,~~) except those operated or maintained by a bona fide religious or sectarian institution, are "places of public resort, accommodation, assemblage or amusement" for purposes of the Washington state law against discrimination, chapter 49.60 RCW. (~~See the definition of the quoted term in RCW 49.60.040.~~)

(2) (~~This means that~~) 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, "race, creed, color, national origin, sex, 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 49.60.215).

(3) Except for conditions and limitations established by law and applicable to all persons, regardless of protected status, it is an unfair practice under RCW 49.60.215 for (nonexempt) public and private schools or educational facilities or their agents or employees ("to"), on the basis of protected status, to:

(a) Commit any act which directly or indirectly results in any distinction, restriction or discrimination (~~or the requiring of~~);

(b) Require any person to pay a larger sum than the uniform rates charged other persons (~~or the refusing or withholding~~);

(c) Refuse or withhold from any person the admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging (~~or except for conditions and limitations established by law and applicable to all persons, regardless of race, creed, color, or national origin.~~)

(3) ~~This public accommodations section of the law against discrimination applies to schools in their relationship with students and potential students and their parents, and with members of the public who seek to use school facilities or who have an interest in how school facilities are used. Other sections of the law against discrimination govern schools in their relationship to employees (e.g. RCW 49.60.180), to those with whom schools have real estate transactions (e.g. RCW 49.60.222), and to others. RCW 49.60.030 declares a general civil right to be free from discrimination because of race, creed, color, national origin, sex, or the presence of any sensory, mental or physical handicap. Public schools are governed by Article IX, section 1 (equal education) and Article XXXI (Amendment 61) (equal rights) of the Washington constitution and various federal and state statutes on equal treatment of the races and sexes, in addition to the law against discrimination)) in a place of public accommodation.~~

AMENDATORY SECTION (Amending Order 17, filed 6/28/74)

**WAC 162-28-040 ((Equal educational opportunity for children who are limited in)) English language ((skills because of)) limitations and national origin discrimination.** ((+)) It is an unfair practice ((under RCW 49.60.215 for a school or educational institution covered by that section)) for public and private schools to fail or refuse to provide equal educational opportunity to children who are deficient in English language skills because of their national origin. Schools attended by such children shall meet the following standards:

((+)) (1) Where inability to speak and understand the English language excludes ((national origin minority group)) children based on national origin from effective participation ((in the educational program offered by a school district)), the district must take ((affirmative)) steps to ((rectify the language deficiency in order to open its instructional program to these students)) insure all programs and activities do not bar such students from fully participating.

((+)) (2) The ((affirmative)) steps taken under part ((+)) (1) shall build competency in the English language without detriment to the children's skills in other languages, and without impairing or suppressing the children's cultural identity and heritage. The steps may include bilingual ((bicultural)) education. The appropriateness of particular ((action)) steps to be taken will depend in part on ((whether the school or educational institution has many children or only a few)) the number of children who require ((the steps)) this service. ((Nothing in this section is intended to preclude inclusion in the program of children who are deficient in the

PROPOSED

English language for reasons other than their national origin where that is compatible with the purposes of this section:

~~(e) School districts must not assign national origin-minority group students to)~~ (3) Students who are deficient in English language skills because of their national origin must not be assigned to special education classes for ~~((the mentally retarded))~~ students with mental or other disabilities solely on the basis of criteria which essentially measure or evaluate English language skills; nor may school districts deny ~~((national origin-minority group))~~ children based on their national origin access to college preparatory courses on a basis directly related to the failure of the school system to ~~((inculcate))~~ address English language ~~((skills))~~ deficiencies.

~~((d))~~ (4) Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of ~~((national origin-minority group))~~ children based on their national origin must be designed to meet such language skill needs as soon as possible and must not operate as an educational deadend or permanent track.

~~((e))~~ (5) School districts have the responsibility to adequately notify ~~((national origin-minority group))~~ parents, regardless of their national origin, of school activities which are called to the attention of other parents. In order to be adequate, such notice ~~((in order to be adequate))~~ may have to be provided in a language other than English.

~~((2))~~ This section is intended to be consistent with the requirements of section 601 the United States Civil Rights Act of 1964, 42 USC section 2000d, and the regulations of the United States Department of Health, Education and Welfare, 45 CFR Part 80, and HEW guidelines to selected school districts dated 10 July 1970, 35 Fed. Reg. 11595, as interpreted in *Lau v. Nichols*, 39 L. ed 2d 1, 94 S. Ct. . . ., (1974). Parts (a), (c), (d), and (e) of paragraph (1) are taken verbatim from the 10 July 1970 HEW guideline.)

**AMENDATORY SECTION** (Amending Order 25, filed 4/23/76)

**WAC 162-40-010 Scope of chapter.** This chapter ~~((contains regulations carrying out the purposes of the provisions of))~~ carries out the policies and practices of the commission in connection with the law against discrimination covering credit transactions ~~((, and carrying out the policies and practices of the commission in connection therewith))~~. The principal statutes involved are RCW 49.60.175, 49.60.176, and 49.60.222(9).

**AMENDATORY SECTION** (Amending Order 34, filed 6/30/77)

**WAC 162-40-021 ~~((202-11))~~ Coordination with federal law.** (1) ~~((Equal Credit Opportunity Act.))~~ It is the policy of the commission to coordinate its enforcement of the Washington state law against discrimination with enforcement of the federal Equal Credit Opportunity Act, Pub. L. 93-495, as amended ~~((Pub. L. 94-239, 15 USC § 1691 et seq.))~~, and Regulation B Equal Credit Opportunity 12 CFR 202, to the maximum extent possible without diminishing the impact of the state law where the ~~((two))~~ statutes differ. ~~((Most persons will be covered by both statutes. However, the coverage of~~

~~the federal statute is broader than the state statute.))~~ Federal law alters, affects or preempts only those regulations contained in this chapter which are inconsistent with federal law, and then only to the extent of the inconsistency. ~~((The regulations contained in this chapter are not inconsistent with federal law if the creditor can comply with such regulations without violating federal law.))~~

(2) Differences between state and federal regulations. ~~((The following sections should be closely reviewed, in that these sections contain provisions unique to the state regulation or are different due to the effect of Washington state community property law, chapter 26.16 RCW: WAC 162-40-031; 162-40-041 (5), (7), (12), (18), (20), (21), (22); 162-40-071; 162-40-081; 162-40-101; 162-40-111; 162-40-131 (2)(e), (4)(a), (5)(e), (6); 162-40-161; 162-40-171(5); 162-40-191; 162-40-201; 162-40-231; 162-40-241(2); 162-40-251.~~

(3) Informal advice. In addition to following the procedures outlined in WAC 162-40-030, persons may seek informal advice from the commission's staff on the differences between the state and federal regulations. ~~Such inquiries should be directed to the commission's credit review officer.)~~ The state of Washington is a community property state; therefore, regulations governing community property may define the differences between the federal and state regulations.

**AMENDATORY SECTION** (Amending Order 34, filed 6/30/77)

**WAC 162-40-041 ~~((202-2))~~ Definitions.** For purposes of this regulation, unless the context indicates otherwise, the following definitions ~~((and rules of construction shall))~~ apply:

(1) "Account" means an extension of credit. When employed in relation to an account, the word "use" refers only to open end credit.

(2) "Adverse action."

(a) ~~((For the purposes of notification of action taken, statement of reasons for denial, and record retention,))~~ The term means:

(i) A refusal to grant credit in substantially the amount or on substantially the terms requested ~~((by))~~ in an (applicant) application unless the creditor ~~((offers to))~~ makes a counter-offer (to grant credit ~~((other than in substantially the amount or on substantially the terms requested by the applicant))~~ in a different amount or on other terms) and the applicant uses or expressly accepts the credit offered; ~~((or))~~

(ii) A termination of an account or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a ~~((classification))~~ class of a creditor's accounts; or

(iii) A refusal to increase the amount of credit available to an applicant ~~((when the applicant requests an increase in accordance with procedures established by the creditor for the type of credit involved))~~ who has made an application for an increase.

(b) The term does not include:

(i) A change in the terms of an account expressly agreed to by an applicant; ~~((or))~~



(ii) Any action or forbearance relating to an account taken in connection with inactivity, default, or delinquency as to that account; ~~((or))~~

(iii) A refusal ~~((to extend credit at a point of sale or loan in connection with the use of an account because the credit requested would exceed a previously established credit limit on the account;))~~ or failure to authorize an account transaction at a point of sale or loan, except when the refusal is a termination or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a class of the creditor's accounts, or when the refusal is a denial of an application for an increase in the amount of credit available under the account;

(iv) A refusal to extend credit because applicable law prohibits the creditor from extending the credit requested; or

(v) A refusal to extend credit because the creditor does not offer the type of credit or credit plan requested.

(3) "Applicant" means any person who requests or who has received an extension of credit from a creditor, and includes any person who is or may be contractually liable regarding an extension of credit other than a guarantor, surety, endorser, or similar party.

(4) "Application" means an oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested. The term does not include the use of an account or line of credit to obtain an amount of credit that ~~((does not exceed))~~ is within a previously established credit limit. A "completed application ~~((for credit))~~" means an application in connection with which a creditor has received all the information that the creditor regularly obtains and considers in evaluating applications for the amount and type of credit requested (including, but not limited to, credit reports, any additional information requested from the applicant, and any approvals or reports by governmental agencies or other persons that are necessary to guarantee, insure, or provide security for the credit or collateral) ~~((; provided, however, that the creditor has exercised))~~. The creditor shall exercise reasonable diligence in obtaining such information. ((Where an application is incomplete respecting matters that the applicant can complete, a creditor shall make a reasonable effort to notify the applicant of the incompleteness and shall allow the applicant a reasonable opportunity to complete the application.))

(5) "Community property" means community property ~~((under the law of the state of Washington. RCW 26.16.030.† See companion definition of separate property, infra))~~ as defined in RCW 26.16.030 Community property defined—Management and control.

(6) "Consumer credit" means credit extended to a ~~((natural))~~ person ~~((in which the money, property or service that is the subject of the transaction is))~~ primarily for personal, family, or household purposes.

(7) "Consumer reporting agency" means any person which for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purposes of furnishing reports on consumers to third parties. ~~((For purposes of~~

~~this regulation this definition shall not include creditors who report only their own transactions or experiences between the consumer and the person making the report.))~~

(8) "Contractually liable" means expressly obligated to repay all debts arising on an account by reason of an agreement to that effect.

(9) "Credit" means the right granted by a creditor to an applicant to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment therefor.

(10) "Credit card" means any card, plate, coupon book, or other single credit device ~~((existing for the purpose of being))~~ that may be used from time to time ~~((upon presentation))~~ to obtain money, property, or services on credit.

(11) "Creditor" means a person who, in the ordinary course of business, regularly participates in the decision of whether or not to extend credit. The term includes ~~((an))~~ the creditor's assignee, transferee, or subrogee ~~((of an original creditor))~~ who so participates ~~((; but an assignee, transferee, subrogee, or other creditor is not a creditor regarding any violation of chapter 49.60 RCW or this chapter committed by the original or another creditor unless the assignee, transferee, subrogee, or other creditor knew or had reasonable notice of the act, policy, or practice that constituted the violation before its involvement with))~~. The term also includes a person who, in the ordinary course of business, regularly refers applicants or prospective applicants to creditors, or selects or offers to select creditors to whom requests for credit may be made. A person is not a creditor regarding any violation committed by another creditor unless the person knew or had reasonable notice of the act, policy, or practice that constituted a violation before becoming involved in the credit transaction. The term does not include a person whose only participation in a credit transaction is to honor a credit card.

(12) "Credit transaction" is defined in RCW 49.60.040. ~~((Consistent with Regulation B, "credit transaction" may also mean every aspect of an applicant's dealings with a creditor regarding an application for, or an existing extension of, credit including, but not limited to, information requirements; investigation procedures; standards of credit-worthiness; terms of credit; furnishing of credit information; revocation, alteration, or termination of credit; and collection procedures.))~~

(13) "Extend credit and extension of credit" mean the granting of credit in any form ~~((and include, but are)),~~ including, but not limited to, credit granted in addition to any existing credit or credit limit; credit granted pursuant to an open end credit plan; the refinancing or other renewal of credit, including the issuance of a new credit card in place of an expiring credit card or in substitution for an existing credit card; the consolidation of two or more obligations; or the continuance of existing credit without any special effort to collect at or after maturity.

(14) "Good faith" means honesty in fact in the conduct or transaction.

(15) "Inadvertent error" means a mechanical, electronic, or clerical error that a creditor demonstrates was not intentional and occurred notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

PROPOSED

(16) "Marital status" (~~means the state of being unmarried, married, or separated, as defined by applicable state law. For the purposes of this regulation, the term "unmarried" includes persons who are single, divorced, or widowed~~) is defined in RCW 49.60.040(7).

(17) "Open end credit" means credit extended (~~pursuant to~~) under a plan (under) in which a creditor may permit an applicant to make purchases or obtain loans from time to time directly from the creditor or indirectly by use of a credit card, check, or other device (~~as the plan may provide~~). The term does not include negotiated advances under an open end real estate mortgage or letter of credit.

(18) "Person" is defined in RCW 49.60.040. (~~Consistent with Regulation B, "person" may also mean a natural person, corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.~~)

(19) (~~"Prohibited basis" means race, color, creed, national origin, sex and marital status.~~)

(20)) "Separate property" is defined in RCW 26.16.010 and 26.16.020. (~~4~~)

#### Notes:

~~<sup>1</sup>RCW 26.16.030. Community property defined—Management and control. Property not acquired or owned, as prescribed in RCW 26.16.010 and 26.16.020, acquired after marriage by either husband or wife or both, is community property. Either spouse, acting alone, may manage and control community property, with a like power of disposition as the acting spouse has over his or her separate property, except:~~

~~(1) Neither spouse shall devise or bequeath by will more than one-half of the community property.~~

~~(2) Neither spouse shall give community property without the express or implied consent of the other.~~

~~(3) Neither spouse shall sell, convey, or encumber the community real property without the other spouse joining in the execution of the deed or other instrument by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument must be acknowledged by both spouses.~~

~~(4) Neither spouse shall purchase or contract to purchase community real property without the other spouse joining in the transaction of purchase or in the execution of the contract to purchase.~~

~~(5) Neither spouse shall create a security interest other than a purchase money security interest as defined in RCW 62A.9-107 in, or sell, community household goods, furnishings, or appliances unless the other spouse joins in executing the security agreement or bill of sale, if any.~~

~~(6) Neither spouse shall acquire, purchase, sell, convey, or encumber the assets, including real estate, or the good will of a business where both spouses participate in its management without the consent of the other. *Provided*, That where only one spouse participates in such management the participating spouse may, in the ordinary course of such business, acquire, purchase, sell, convey or encumber the assets, including real estate, or the good will of the business without the consent of the nonparticipating spouse. (1972 ex.s. e-108 § 3; Code 1881 § 2409; RRS § 6892.)~~

~~<sup>2</sup>RCW 49.60.040: "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred.~~

~~<sup>3</sup>RCW 49.60.040: "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers or any group of persons; it includes any owner, lessee, proprietor, manager, agent or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof.~~

~~<sup>4</sup>RCW 26.16.010. Separate property of husband. Property and pecuniary rights owned by the husband before marriage and that acquired by him afterwards by gift, bequest, devise or descent, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his wife, and he may manage, lease, sell, convey, encumber or devise by will such property without the wife joining in such management, alienation or encumbrance, as fully and to the same effect as though he were unmarried.~~

~~RCW 26.16.020 Separate property of wife. The property and pecuniary rights of every married woman at the time of her marriage or afterwards acquired by gift, devise or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of her husband, and she may manage, lease, sell, convey, encumber or devise by will such property to the same extent and in the same manner that her husband can, property belonging to him.)~~

#### NEW SECTION

**WAC 162-40-055 Rules concerning applications.** Rules concerning applications comply with Regulation B Equal Credit Opportunity 12 CFR 202, Section 202.5, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

#### NEW SECTION

**WAC 162-40-065 Rules concerning evaluation of applications.** Rules concerning evaluation of applications comply with Regulation B Equal Credit Opportunity 12 CFR 202, Section 202.6, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

NEW SECTION

**WAC 162-40-075 Rules concerning extensions of credit.** Rules concerning extensions of credit comply with Regulation B Equal Credit Opportunity 12 CFR 202, Section 202.7, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

AMENDATORY SECTION (Amending Order 34, filed 6/30/77)

**WAC 162-40-171 ((202.9)) Notifications.** ((1)) Notification of action taken. A creditor shall notify an applicant of action taken within:

- (a) 30 days after receiving a completed application concerning the creditor's approval of, or adverse action regarding, the application (notification of approval may be express or by implication, where, for example, the applicant receives a credit card, money, property, or services in accordance with the application);
- (b) 30 days after taking adverse action on an uncompleted application;
- (c) 30 days after taking adverse action regarding an existing account; and
- (d) 90 days after the creditor has notified the applicant of an offer to grant credit other than in substantially the amount or on substantially the terms requested by the applicant if the applicant during those 90 days has not expressly accepted or used the credit card.

(2) Content of notification. Any notification given to an applicant against whom adverse action is taken shall be in writing and shall contain: A statement of the action taken; a statement that the Washington state human rights commission administers compliance with the Washington state law against discrimination; and

- (a) A statement of specific reasons for the action taken; or
- (b) A disclosure of the applicant's right to a statement of reasons within 30 days after receipt by the creditor of a request made within 60 days of such notification, the disclosure to include the name, address, and telephone number of the person or office from which the statement of reasons can be obtained. If the creditor chooses to provide the statement of reasons orally, the notification shall also include a disclosure of the applicant's right to have any oral statement of reasons confirmed in writing within 30 days after a written request for confirmation is received by the creditor.

(3) Multiple applicants. If there is more than one applicant, the notification need only be given to one of them, but must be given to the primary applicant where one is readily apparent.

(4) Multiple creditors. If a transaction involves more than one creditor and the applicant expressly accepts or uses the credit offered, this section does not require notification of adverse action by any creditor. If a transaction involves more than one creditor and either no credit is offered or the applicant does not expressly accept or use any credit offered, then each creditor taking adverse action must comply with this section. The required notification may be provided indirectly

through a third party which may be one of the creditors, provided that the identity of each creditor taking adverse action is disclosed. Whenever the notification is to be provided through a third party, a creditor shall not be liable for any act or omission of the third party that constitutes a violation of this section if the creditor accurately and in a timely manner provided the third party with the information necessary for the notification and was maintaining procedures reasonably adapted to avoid any such violation.

(5) Form of notice and statement of specific reasons:

(a) A creditor satisfies the requirements of subsection (2) above if it provides the following notice or one substantially similar:

"Washington state law against discrimination prohibits discrimination in credit transactions because of race, creed, color, national origin, sex or marital status. The Washington state human rights commission administers compliance with this law."

The above notice may be combined with or follow the notice required by 12 C.F.R. §202.9.

(b) Statement of specific reasons. A statement of reasons for adverse action shall be sufficient if it is specific and indicates the principal reason(s) for the adverse action. A creditor may formulate its own statement of reasons in checklist or letter form or may use all or a portion of the sample form printed below, which, if properly completed, satisfies the requirements of subsection (2)(a). Statements that the adverse action was based on the creditor's internal standards or policies or that the applicant failed to achieve the qualifying score on the creditor's credit scoring system are insufficient.

STATEMENT OF CREDIT DENIAL,  
TERMINATION, OR CHANGE

Date.....

Applicant's name:.....

Applicant's address:.....

Description of account, transaction, or requested credit:.....

Description of adverse action taken:.....

PRINCIPAL REASON(S) FOR ADVERSE ACTION CONCERNING CREDIT

- ..... Credit application incomplete
- ..... Insufficient credit references
- ..... Unable to verify credit references
- ..... Temporary or irregular employment
- ..... Unable to verify employment
- ..... Length of employment
- ..... Insufficient income
- ..... Excessive obligations
- ..... Unable to verify income
- ..... Inadequate collateral
- ..... Too short a period of residence
- ..... Temporary residence

PROPOSED

- ..... Unable to verify residence
- ..... No credit file
- ..... Insufficient credit file
- ..... Delinquent credit obligations
- ..... Garnishment, attachment, foreclosure, repossession, or suit
- ..... Bankruptcy
- ..... We do not grant credit to any applicant on the terms and conditions you request.
- ..... Other, specify: .....

DISCLOSURE OF USE OF INFORMATION OBTAINED FROM AN OUTSIDE SOURCE

- ..... Disclosure inapplicable
- ..... Information obtained in a report from a consumer reporting agency.

Name: .....

Street address: .....

Telephone number: .....

- ..... Information obtained from an outside source other than a consumer reporting agency.

Under the Fair Credit Reporting Act, you have the right to make a written request, within 60 days of receipt of this notice, for disclosure of the nature of the adverse information.

Creditor's name: .....

Creditor's address: .....

Creditor's telephone number: .....

(6) Other information. The notification required by subsection (1) may include other information so long as it does not detract from the required content. This notification may also be combined with any disclosures required under any other law, provided that all requirements for clarity and placement are satisfied; and it may appear on either or both sides of the paper if there is a clear reference on the front to any information on the back.

(7) Oral notifications. The applicable requirements of this section are satisfied by oral notifications (including statements of specific reasons) in the case of any creditor that did not receive more than 150 applications during the calendar year immediately preceding the calendar year in which the notification of adverse action is to be given to a particular applicant.

(8) Withdrawn applications. Where an applicant submits an application and the parties contemplate that the applicant will inquire about its status, if the creditor approves the application and the applicant has not inquired within 30 days after applying, then the creditor may treat the application as withdrawn and need not comply with subsection (1).

(9) Failure of compliance. A failure to comply with this section shall not constitute a violation when caused by an inadvertent error; provided that, on discovering the error, the creditor corrects it as soon as possible and commences compliance with the requirements of this section.

(10) Notification. A creditor notifies an applicant when a writing addressed to the applicant is delivered or mailed to the applicant's last known address or, in the case of an oral notification, when the creditor communicates with the applicant.) Rules concerning notifications comply with Regulation B Equal Credit Opportunity 12 CFR 202, Section 202.9, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.

AMENDATORY SECTION (Amending Order 34, filed 6/30/77)

**WAC 162-40-181 ((202.10)) Furnishing of credit information.** ((1) Accounts established on or after June 1, 1977.

(a) For every account established on or after June 1, 1977, a creditor that furnishes credit information shall:

(i) Determine whether an account offered by the creditor is one that an applicant's spouse is permitted to use or upon which the spouses are contractually liable other than as guarantors, sureties, endorsers, or similar parties; and

(ii) Designate any such account to reflect the fact of participation of both spouses.

(b) Except as provided in subsection (3), if a creditor furnishes credit information concerning an account designated under this section (or designated prior to the effective date of this regulation) to a consumer reporting agency, it shall furnish the information in a manner that will enable the agency to provide access to the information in the name of each spouse.

(c) If a creditor furnishes credit information concerning an account designated under this section (or designated, prior to the effective date of this regulation) in response to an inquiry regarding a particular applicant, it shall furnish the information in the name of the spouse about whom such information is requested.

(2) Accounts established prior to June 1, 1977. For every account established prior to and in existence on June 1, 1977, a creditor that furnishes credit information shall either:

(a) Not later than June 1, 1977

(i) Determine whether the account is one that an applicant's spouse, if any, is permitted to use or upon which the spouses are contractually liable other than as guarantors, sureties, endorsers, or similar parties;

(ii) Designate any such account to reflect the fact of participation of both spouses; and

(iii) Comply with the reporting requirements of subsections (1)(b) and (1)(c); or

(b) Mail or deliver to all account holders or all married account holders in whose name the account is carried the notice required by 12 C.F.R. §202.10(b)(2).

(3) Requests to change manner in which information is reported. Within 90 days after receipt of a properly completed request to change the manner in which information is reported to consumer reporting agencies and others regarding an account described in subsection (2), a creditor shall designate the account to reflect the fact of participation of both spouses. When furnishing information concerning any such account, the creditor shall comply with the reporting require-

PROPOSED

~~ments of subsection (1)(b) and (1)(c). The signature of an applicant or the applicant's spouse on a request to change the manner in which information concerning an account is furnished shall not alter the legal liability of either spouse upon the account or require the creditor to change the name in which the account is carried.~~

~~(4) Inadvertent errors. A failure to comply with this section shall not constitute a violation when caused by an inadvertent error; provided that, on discovering the error, the creditor corrects it as soon as possible and commences compliance with the requirements of this section.)) Rules concerning furnishing of Credit Information comply with Regulation B Equal Credit Opportunity 12 CFR 202, Section 202.10, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.~~

AMENDATORY SECTION (Amending Order 34, filed 6/30/77)

**WAC 162-40-191 General rule.** A consumer reporting agency shall not report to a creditor any information relating to an applicant's race, creed, color, national origin ~~((or)), sex, or the presence of any sensory, mental, or physical disability or that the applicant uses a trained dog guide or service animal because of a disability.~~

AMENDATORY SECTION (Amending Order 34, filed 6/30/77)

**WAC 162-40-201 Rules concerning credit files.** (1) Establishing credit files. A consumer reporting agency shall not refuse to establish a credit file for any person in any name under which an applicant may open or maintain an account ~~((pursuant to WAC 162-40-140)).~~ This file may be referenced with the file of the applicant's spouse.

(2) Name on credit report. A consumer reporting agency shall issue credit reports in the name in which the request for the report was received. A credit report may include the name of the spouse or former spouse, if available.

(3) Public record information. If a consumer reporting agency places public record information in credit files and such information contains the names of both spouses, such information shall be referenced so that it is accessible in the name of each spouse.

(a) If a consumer reporting agency places public record information concerning a decree of separation or dissolution of marriage in credit files, it shall place such information in the individual credit file of each spouse.

(4) Community credit files. A consumer reporting agency may reference the credit files of married persons by listing in a spouse's file that the information is contained in the other spouse's file, provided the information is accessible by use of each spouse's name.

(5) Transfer of joint account information. A consumer reporting agency shall, upon request, transfer information from joint credit files to an individual credit file regardless of the name in which the information was originally reported.

AMENDATORY SECTION (Amending Order 34, filed 6/30/77)

**WAC 162-40-211 ~~((202.12))~~ Record retention.** ~~((+)) Retention of prohibited information. Retention in a creditor's files of any information, the use of which is prohibited by these regulations, shall not constitute a violation of these regulations where such information was obtained:~~

~~(a) From any source prior to June 1, 1976;~~

~~(b) At any time from consumer reporting agencies, and;~~

~~(c) At any time from an applicant or others without the specific request of the creditor; or~~

~~(d) At any time as required to monitor compliance with this statute, or other federal or state statute or regulation.~~

~~(2) Preservation of records.~~

~~(a) For 25 months after the date that a creditor notifies an applicant of action taken on an application, the creditor shall retain as to that application in original form or a copy thereof:~~

~~(i) Any application form that it receives, any information required to be obtained concerning characteristics of an applicant to monitor compliance with any other written or recorded information used in evaluating the application and not returned to the applicant at the applicant's request;~~

~~(ii) A copy of the following documents if furnished to the applicant in written form (or, if furnished orally, any notation or memorandum with respect thereto made by the creditor):~~

~~(A) The notification of action taken; and~~

~~(B) The statement of specific reasons for adverse action; and~~

~~(iii) Any written statement submitted by the applicant alleging a violation of this regulation.~~

~~(b) For 25 months after the date that a creditor notifies an applicant of adverse action regarding an account, other than in connection with an application, the creditor shall retain as to that account, in original form or a copy thereof:~~

~~(i) Any written or recorded information concerning such adverse action; and~~

~~(ii) Any written statement submitted by the applicant alleging a violation of this regulation.~~

~~(c) In addition to the requirements of subsections (a) and (b), any creditor that has actual notice that a complaint has been filed against it under chapter 49.60 RCW and these regulations shall retain the information required in subsections (a) and (b) until notified of final disposition of the matter by the Washington state human rights commission.~~

~~(d) In any transaction involving more than one creditor, any creditor not required to comply with WAC 162-40-180 (notifications) shall retain for the time period specified in subsection (2) all written or recorded information in its possession concerning the applicant, including a notation of action taken in connection with any adverse action.~~

~~(3) Failure of compliance. A failure to comply with this section shall not constitute a violation when caused by an inadvertent error.)) Rules concerning record retention conform to Regulation B Equal Credit Opportunity 12 CFR 202, Section 202.12, except where community property law is governed by the state of Washington at chapter 26.16 RCW, Husband and wife—Rights and liabilities—Community property.~~

PROPOSED

AMENDATORY SECTION (Amending Order 34, filed 6/30/77)

**WAC 162-40-221 Rules of construction.** ~~((+))~~ Any violation of the provisions of this chapter shall constitute an unfair practice within the meaning of RCW 49.60.175, 49.60.176, and/or 49.60.222~~((9))~~ (1)(j).

~~((2) Captions, catchlines and parenthetical references to Regulation B, 12 C.F.R. pt. 202 are intended solely as aids to convenient reference, and no inference as to the substance of any provision of these regulations may be drawn from them:))~~

AMENDATORY SECTION (Amending Order 34, filed 6/30/77)

**WAC 162-40-231** ~~((202.8))~~ **Exemption for special purpose credit program.** Any credit program that qualifies as a special purpose credit program under the provisions of 12 C.F.R. §202.8 is exempt from ~~((the operation of))~~ these regulations to the extent these regulations are inconsistent with the provisions of 12 C.F.R. §202.8.

AMENDATORY SECTION (Amending Order 34, filed 6/30/77)

**WAC 162-40-251 Remedies.** ~~((A hearing tribunal))~~ An administrative law judge may order, or the commission's staff may propose upon a finding of reasonable cause to believe a violation of chapter 49.60 RCW has occurred, or in prefinding settlement efforts, remedies, including but not limited to:

- (1) Requiring the creditor to establish in writing nondiscriminatory criteria for the granting of credit.
- (2) Requiring the creditor or consumer reporting agency to conduct training sessions of its employees and agents in order to insure that ~~((discriminatory practices cease))~~ the employees and agents are aware of their responsibilities and liabilities under the Washington state law against discrimination RCW 49.60.240, 49.60.250, and 49.60.225 and Regulation B of the Equal Credit Opportunity Act, Section 202.14.
- (3) Requiring the creditor to pay actual or special damages to aggrieved parties.
- (4) Requiring the creditor to submit to the commission proof that it has ceased said discriminatory practices and implemented a policy of nondiscrimination.
- (5) Requiring that the creditor conduct remedial advertising.
- (6) Requiring the creditor to offer credit to the aggrieved parties.
- (7) Requiring the creditor or consumer reporting agency to revise the structure and content of its files to eliminate discrimination and to remove all references to the complaint from the complainant's file.
- (8) Requiring the posting of a notice in view of applicants for credit stating that it is an unfair practice for any person furnishing credit to deny or terminate such credit or to adversely affect an individual's credit standing because of such individual's race, creed, color, sex, national origin, or marital status.

(9) Requiring the distribution of these regulations to each of its employees and agents who determine, influence, or effectuate the creditor's policies and practices.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 162-40-031 (202.1(d)) Commission review of forms, practices and procedures.
- WAC 162-40-051 (202.4) General rule prohibiting discrimination.
- WAC 162-40-061 (202.5(a)) Discouraging applications.
- WAC 162-40-071 (202.5(b)(1)) General rule concerning requests for information.
- WAC 162-40-081 (202.5(b)) Request for designation of membership in certain protected classes.
- WAC 162-40-091 (202.5(d)) Other information a creditor may not request.
- WAC 162-40-101 (202.5(c)) Information about a spouse or former spouse.
- WAC 162-40-111 (202.5(e)) Application forms: Special state requirements.
- WAC 162-40-121 (202.6(a)) General rule concerning use of information.
- WAC 162-40-131 (202.6(b)) Specific rules concerning use of information.
- WAC 162-40-141 (202.7(a), (b)) Opening accounts.
- WAC 162-40-151 (202.7(c)) Action concerning existing open end accounts.
- WAC 162-40-161 (202.7(d)) Signature of spouse or other person.
- WAC 162-40-241 (202.3) Special treatment for certain classes of transactions.

**WSR 99-17-107**  
**PROPOSED RULES**  
**OFFICE OF**  
**ADMINISTRATIVE HEARINGS**  
[Filed August 18, 1999, 9:41 a.m.]

Original Notice.  
Preproposal statement of inquiry was filed as WSR 99-13-188.

PROPOSED

Title of Rule: Update chapter 10-08 WAC, Model rules of procedure, chapter 10-04 WAC, agency organization—Public records, chapter 10-12 WAC, Compliance with SEPA. New chapter 10-16 WAC, Complaints about administrative law judges.

Chapter 10-04 WAC, Agency organization—Public records. WAC 10-04-010 Purpose. Corrects citations for purpose of chapter. WAC 10-04-020 Function—Organization—Offices. Updates address and deletes obsolete description of agency organization. WAC 10-04-030 Public records—Availability. Corrects citation. WAC 10-04-040 Public records—Officer. Updates positions designated as public records officers. WAC 10-04-050 Requests for public records. Simplifies explanation of process for requesting public records. WAC 10-04-060 Copying fees. Conforms fees for public records with RCW 42.17.300, including change to fifteen cents per page for copies. WAC 10-04-070 Exemptions. Corrects citation. WAC 10-04-080 Review of denials of public records request. Conforms process for review of denial with RCW 42.17.320 and 42.17.325. WAC 10-04-090 Protection of public records. Clarifies provisions on disrupting the office.

Chapter 10-08 WAC, Model rules of procedure. WAC 10-08-001 Declaration of purpose. Clarifies application of Model Rules of Procedure to govern adjudicative proceedings under the Administrative Procedure Act. WAC 10-08-035 Adjudicative proceedings—Application. Simplifies terminology. WAC 10-08-040 Adjudicative proceedings—Notice of hearing. Corrects and simplifies language. WAC 10-08-045 Adjudicative proceedings—Notice to limited English-speaking parties. Clarifies definition to conform with RCW 2.43.020. WAC 10-08-050 Adjudicative proceedings—Assignment of administrative law judge—Motion of Prejudice. Clarifies authority of designee. WAC 10-08-083 Notice of appearance. (New section). Establishes standards for filing notice of appearance. WAC 10-08-085 Consolidation of proceedings. (New section). Authorizes consolidation of multiple proceedings. WAC 10-08-090 Adjudicative proceedings—Continuances. Clarifies procedures for continuances. WAC 10-08-110 Adjudicative proceedings—Filing and service of papers. Separates provisions for filing, service, and proof of service. Establishes standards for filing by fax. Establishes filing by e-mail only when authorized by presiding officer. Deletes service by telegraph. Deletes same-day requirement for proof of service. WAC 10-08-120 Adjudicative proceedings—Subpoenas. Clarifies process for subpoenas. WAC 10-08-130 Adjudicative proceedings—Prehearing conference. Corrects typographic error. WAC 10-08-135 Summary judgment. (New section). Explicitly authorizes summary judgment based on standards in CR 56. WAC 10-08-140 Adjudicative proceedings—Evidence. Corrects typographic error. WAC 10-08-150 Adjudicative proceedings—Interpreters. Corrects typographic errors. WAC 10-08-160 Adjudicative proceedings—Testimony under oath or affirmation. Provides for out-of-state witnesses to agree to jurisdiction. WAC 10-08-180 Adjudicative proceedings—Teleconference hearings. Clarifies standards for telephone or electronic hearings and deletes requirement for agency concurrence. WAC 10-08-200 Adjudicative proceedings—Presiding officer. Clarifies authority of presiding officer, includ-

ing citations to authority, summary judgment, orders of default, prehearing conferences, and mediation. WAC 10-08-210 Adjudicative proceedings—Initial or final order. Deletes requirement for statement of nature and background of the proceeding. WAC 10-08-217 Shortened record on petition for review of appeal. (New section). Authorizes order for costs for unreasonable refusal to shorten record on an appeal of an initial order. WAC 10-08-219 Correction of transcript. (New section). Establishes procedures for correcting transcripts. WAC 10-08-251 Declaratory orders—Procedural rights of persons in relations to parties. Adds citation requiring consent of person to be bound by order. WAC 10-08-260 Petition for rule making—Form, content and filing. Repealed to conform with RCW 34.05.330. WAC 10-08-261 Petition for rule making—Consideration and disposition. Repealed to conform with RCW 34.05.330.

Chapter 10-12 WAC, Compliance with SEPA. WAC 10-12-010 Purpose. Corrects citation to SEPA. WAC 10-12-020 Application. Corrects citations.

Chapter 10-16 WAC, Complaint procedures. WAC 10-16-010 Procedure for complaints regarding improper conduct of an administrative law judge. (New section). Establishes procedures for the public to file complaints.

Purpose: Update model procedural rules for conducting administrative hearings for other agencies. Update rules to access Office of Administrative Hearings (OAH) public records. Clerical revisions to OAH rules on SEPA. Publish procedures for making complaints about the conduct of administrative law judges.

Statutory Authority for Adoption: RCW 34.05.020, 34.05.250, 34.12.030, 34.12.080, 42.17.250, 43.21C.120.

Statute Being Implemented: RCW 34.05.220, 34.12.080, 42.17.250, 43.21C.120.

Summary: See Title of Rule above.

Reasons Supporting Proposal: See Title of Rule above.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Art Wang, Office of Administrative Hearings, P.O. Box 42488, Olympia, 98504-2488, (360) 664-8717.

Name of Proponent: Office of Administrative Hearings, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The main purpose of these amendments is to update the Model Rules of Procedure (chapter 10-08 WAC), which have not been revised since 1989. The Model Rules of Procedure are intended to provide guidance for other agencies and to encourage more consistent procedures under the Administrative Procedure Act (APA). In addition, rules update procedures for public access to OAH records, make clerical revisions to OAH rules on SEPA compliance, and publish formal procedures for filing complaints about conduct by administrative law judges.

Proposal Changes the Following Existing Rules: Update chapter 10-08 WAC, including new or amended provisions for notices of appearance, consolidation of proceedings, filing by fax, proof of service, summary judgment, telephone or electronic hearing, mediation, shortened record on review, and correction of transcripts, and repeal of superseded provi-

sions for petitions for rule making. Update chapter 10-04 WAC for public access to OAH records. Clerical revisions to chapter 10-12 WAC on SEPA compliance. See Title of Rule above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Proposed rules do not have an economic impact on small businesses and are exempt pursuant to RCW 19.85.025(3) and 34.05.310 (4)(b), (d), (f), and (g)(i).

RCW 34.05.328 does not apply to this rule adoption. Proposed rules are exempt pursuant to RCW 34.05.328 (5)(b) and (c).

Hearing Location: Office of Administrative Hearings, 919 Lakeridge Way S.W., (near Cavanaugh's Hotel), 2nd Floor, Olympia, WA 98504, on September 21, 1999, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Barb Cleveland by September 14, 1999, TDD (800) 833-6388 or (360) 586-3169.

Submit Written Comments to: Art Wang, Office of Administrative Hearings, P.O. Box 42488, Olympia, WA 98504-2488, awang@oah.wa.gov, fax (360) 664-8721, by September 21, 1999.

Date of Intended Adoption: October 6, 1999.

August 17, 1999

Art Wang  
Chief Administrative Law Judge

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

**WAC 10-04-010 Purpose.** The purpose of this chapter is to provide rules implementing RCW ~~((34.04.020 and))~~ 42.17.250 ~~((through 42.17.320))~~ et seq. for the office of administrative hearings.

AMENDATORY SECTION (Amending WSR 93-10-098, filed 5/5/93, effective 6/5/93)

**WAC 10-04-020 Function—Organization—Offices.** The office of administrative hearings ~~((was created by chapter 34.12 RCW for the impartial administration of))~~ conducts impartial administrative hearings for state agencies and local governments pursuant to chapter 34.12 RCW. The office is under the direction of the chief administrative law judge ~~((and is organized in two divisions)).~~

Administrative law judges ~~((assigned to the two divisions))~~ preside over hearings in adjudicative proceedings and issue initial or final orders, including findings of fact and conclusions of law. ~~((Division one is responsible for hearings held before [and] [the] department of social and health services, the utilities and transportation commission, the liquor control board, the department of licensing, the superintendent of public instruction, and any other state agency requiring administrative law judge services except the employment security department. Division two is responsible for hearings held before the employment security department.))~~

The administrative office is located at ~~((2424 Heritage Court SW, Suite 302))~~ 919 Lakeridge Way SW, 2nd Floor,

P.O. Box 42488, Olympia, Washington, 98504-2488. The office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday except legal holidays. Administrative law judges are ~~((housed in))~~ assigned to field offices located in Everett, Olympia, Seattle, Spokane, Vancouver, and Yakima. Each ~~((of these))~~ office~~((s))~~ is headed by a senior administrative law judge.

All written ~~((communication[s]))~~ communications by parties pertaining to a particular case shall be filed with the field office, if any, assigned to the case, and otherwise with the ~~((deputy))~~ chief administrative law judge or designee at the administrative office.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

**WAC 10-04-030 Public records—Availability.** Public records are available for public inspection and copying except as otherwise provided ~~((by RCW 42.17.310))~~ under chapter 42.17 RCW and these rules.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

**WAC 10-04-040 Public records—Officer.** The public records officer for the administrative office shall be the ~~((confidential secretary to the chief administrative law judge))~~ executive assistant. For those records maintained at field office locations, the public records officer shall be the senior administrative law judge ~~((in benefits division field offices and the deputy chief administrative law judge for regulatory and special assignments field offices)).~~

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

**WAC 10-04-050 Requests for public records.** ~~((In accordance with requirements of chapter 42.17 RCW that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:))~~

(1) ~~((A request shall be made in writing upon a form prescribed by the office which shall be available at the offices where records are maintained. The form shall be presented to the public records officer, or to a member of the staff designated by him or her if the public records officer is not available, during office hours.))~~ Members of the public may inspect or obtain copies of public records in accordance with chapter 42.17 RCW by submitting a written request to the public records officer (or designee) during office hours. The office shall provide a form for submitting a request for public records. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The ~~((time of day and calendar))~~ date on which the request was made;
- (c) The nature of the request;



(d) An appropriate description of the record requested;  
and

(e) Where and how to deliver the record requested.

(2) ~~(In all cases in which a member of the public is making a request, it shall be the obligation of the)~~ The public records officer (or designated staff member to whom the request is made to) shall assist the member of the public in appropriately identifying the public record requested.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-04-060 Copying fees.** No fee shall be charged for the inspection of public records. The office shall charge a fee of ~~((ten))~~ fifteen cents per page of copy for providing copies of public records and for the use of the office's copy equipment, ~~((subject to a minimum charge per order of \$1.00))~~ including electronic telefacsimile transmission, plus the actual postage ((at actual cost)) or delivery charge. ((This charge is the amount necessary to reimburse the office for its actual costs incident to such copying and mailing or transmission by telefacsimile.)) Fees may be waived for minimal copies.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

**WAC 10-04-070 Exemptions.** (1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 10-04-050 is exempt under the provisions of chapter 42.17 RCW ((47.17.310)) or other law.

(2) In addition, pursuant to RCW 42.17.260(1), the office reserves the right to delete identifying details when it makes available or publishes any public record in any cases where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the records withheld.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

**WAC 10-04-080 Review of denials of public records request.** (1) ~~((Any person who objects to the denial of a))~~ A person whose request for a public record has been denied may petition for prompt review of ((such decision by tendering)) the denial by submitting a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the chief administrative law judge or ~~((his))~~

designee. The chief administrative law judge or ~~((his))~~ designee shall immediately consider the matter and ~~((either))~~ affirm, modify, or reverse ((such)) the denial within ((five)) two business days following the original denial.

(3) ~~((Administrative remedies shall not be considered exhausted until the chief administrative law judge or his designee has returned the petition with a decision or until the close of the fifth business day following denial of inspection, whichever occurs first.))~~ A person whose request for a public record has been denied may request the attorney general to review the matter pursuant to RCW 42.17.325.

AMENDATORY SECTION (Amending Order 3, filed 11/1/82)

**WAC 10-04-090 Protection of public records.** (1) No person shall knowingly alter, deface, or destroy public records of the office.

(2) Original copies of public records of the office shall not be removed from the premises where maintained by the office.

(3) Care and safekeeping of public records of the office, furnished pursuant to a request for inspection or copying, shall be the sole responsibility of the requestor.

(4) Records furnished for public inspection or copying shall be returned in good condition and in the same file sequence or organization as when furnished.

(5) ~~((Boisterous or otherwise disruptive conduct by those requesting public records of the office shall not be permitted.))~~ Persons requesting, inspecting, or copying public records shall not disrupt the office.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-001 Declaration of purpose.** (1) Chapter 10-08 WAC contains the model rules of procedure which RCW 34.05.250 requires the chief administrative law judge to adopt for use by as many agencies as possible. The model rules deal with general functions and duties performed in common by the various agencies. The model rules supplement Administrative Procedure Act provisions which contain grants of rulemaking authority to agencies. It is not the purpose of the model rules to duplicate all procedural provisions of the Administrative Procedure Act. This chapter sets forth general rules applicable to proceedings before many state agencies. It should be read in conjunction with the provisions of the Administrative Procedure Act (chapter 34.05 RCW) and with any administrative rules governing adjudicative proceedings which have been adopted by the particular agency.

(2) Except to the extent an agency is excluded from chapter 34.05 RCW or parts of chapter 34.05 RCW, each agency must adopt as much of the model rules as is reasonable under its circumstances. Any agency adopting a rule of procedure that differs from these model rules must include in the order of adoption a finding stating the reasons for variance.

(3) Adoption of these 1999 amendments to the model rules does not invalidate any variances in rules adopted by agencies between the effective date of the 1988 amendments

PROPOSED

to the Administrative Procedure Act and the effective date of these 1999 amendments to the model rules.

(4) In the absence of other rules to the contrary, these model rules shall govern any adjudicative proceedings under the Administrative Procedure Act.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-035 Adjudicative proceedings—Application.** An application for an adjudicative proceeding may be on a form provided by the agency for that purpose or in other writing signed by the applicant or the applicant’s representative. The application for an adjudicative proceeding should specify the issue to be (~~adjudicated~~) decided in the proceeding.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-040 Adjudicative proceedings—Notice of hearing.** (1) In any adjudicative proceeding all parties shall be served with a notice of hearing within the time required by (~~the statute~~) law governing the respective agency or proceeding (~~and, in the absence of a~~). If there is no requirement under other law, all parties shall be served with a notice of hearing not less than seven days before the date set for the hearing. The notice shall include the information specified in RCW 34.05.434 (~~and~~). If the hearing is to be conducted by teleconference call, the notice shall so state.

(2) The notice shall state that if a limited-English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter will be appointed and (~~that~~) there will be no cost to the party or witness. The notice shall include a form for a party to indicate whether the party needs an interpreter and to identify the primary language or hearing impaired status of the party.

(3) Defects in (~~the~~) the notice may not be waived unless:

- (a) The presiding officer determines that the waiver has been made knowingly, voluntarily and intelligently;
- (b) The party’s representative, if any, consents; and
- (c) If a party is an impaired person, the waiver is requested through the use of a qualified interpreter.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-045 Adjudicative proceedings—Notice to limited-English-speaking parties.** (1) When an agency is notified or otherwise made aware that a limited-English-speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal, (~~shall~~) either:

- (a) Shall be written in the primary language of the party; or
- (b) Shall include a notice in the primary language of the party which describes the significance of the notice and how the party may receive assistance in understanding and responding to (~~if necessary~~) the notice.

(2) For purposes of this chapter, the term "limited-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language. The term has the same meaning as "non-English-speaking person" as defined in RCW 2.43.020.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-050 Adjudicative proceedings—Assignment of administrative law judge—Motion of prejudice.**

(1) Whenever a state agency as defined in RCW 34.12.020(4) conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the agency shall use one of the following methods for requesting assignment of an administrative law judge:

(a) Not less than twenty days prior to the date of the hearing, notify the chief administrative law judge or his or her designee of the date, time, and place of the hearing and request assignment of an administrative law judge to preside over the hearing, or

(b) File with the office of administrative hearings a copy of the hearing file, which filing shall be deemed to be a request for assignment of an administrative law judge to issue the notice of hearing and preside over the hearing, or

(c) Schedule its hearings to be held at times and places reserved and provided to the agency for that purpose by the office of administrative hearings.

(2) Motions of prejudice with supporting affidavits under RCW 34.12.050 must be filed at least three days prior to the hearing or to any earlier stage of the adjudicative proceeding at which the administrative law judge may be required to issue a discretionary ruling. If the notice of hearing does not state the name of the presiding administrative law judge, the chief administrative law judge or his or her designee shall make such assignment at least five days prior to the hearing and shall disclose the assignment to any party or representative making inquiry. Subsequent motions of prejudice filed by the same party in the same proceeding shall be ruled upon by the chief administrative law judge or his or her designee.

NEW SECTION

**WAC 10-08-083 Notice of appearance.** If a party is represented, the representative should provide the presiding officer and other parties with the representative’s name, address, and telephone number. The presiding officer may require the representative to file a written notice of appearance or to provide documentation that an absent party has authorized the representative to appear on the party’s behalf. If the representative is an attorney admitted to practice in this state, the attorney shall file a written notice of appearance and shall file a notice of withdrawal upon withdrawal of representation.

NEW SECTION

**WAC 10-08-085 Consolidation of proceedings.** If there are multiple adjudicative proceedings involving com-

PROPOSED

mon issues or parties, upon motion of any party or upon his or her own motion, the presiding officer may, in his or her discretion, consolidate the proceedings.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-090 Adjudicative proceedings—Continuances.** (1) Postponements, continuances, extensions of time, and adjournments may be ordered by the presiding officer on his or her own motion or may be granted on timely request of any party, with notice to all other parties, ~~((showing)) if the party shows good ((and sufficient)) cause ((therefor)).~~

(2) A request for a continuance ~~((made prior to the hearing date))~~ may be oral or written ~~((and shall state that))~~. The party seeking the continuance ~~((has notified)) shall notify~~ all other parties of the request ~~((and that either))~~. ~~The request for a continuance shall state whether or not~~ all other parties agree to the continuance ~~((or that all parties do not agree to the continuance))~~. If all parties do not agree to the continuance, the presiding officer shall promptly schedule a prehearing conference to receive argument and to rule on the request.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-110 Adjudicative proceedings—Filing and service of papers.** (1) Filing.

(a) Papers required to be filed with the agency shall be deemed filed upon actual receipt during office hours at any office of the agency. Papers required to be filed with the presiding officer shall be deemed filed upon actual receipt during office hours at the office of the presiding officer.

(b) The following conditions apply for filing papers with the presiding officer by fax:

(i) As used in this chapter, "fax" means electronic telefacsimile transmission.

(ii) Papers may be filed by fax with the presiding officer. Filing by fax is perfected when a complete legible copy of the papers is reproduced on the presiding officer's fax machine during normal working hours, excluding weekends and holidays. If a transmission of papers commences after these office hours, the papers shall be deemed filed on the next succeeding business day.

(iii) Any papers filed by fax with the presiding officer should be accompanied by a cover page or other form identifying the party making the transmission, listing the address, telephone, and fax number of the party, identifying the adjudicative proceeding to which the papers relate, and indicating the date of and the total number of pages included in the transmission.

(iv) Papers filed by fax should not exceed fifteen pages in length, exclusive of any cover page.

(v) The party attempting to file the papers by fax bears the risk that the papers will not be timely received or legibly printed, regardless of the cause. If the fax is not received in legible form, it will be considered as if it had never been sent.

(vi) The original of any papers filed by fax should be mailed to the presiding officer within twenty-four hours of

the time that the fax was sent. The presiding officer has discretion to require this.

(c) The filing of papers with the presiding officer by electronic mail ("e-mail") is not authorized without the express approval of the presiding officer and under such circumstances as the presiding officer allows.

(2) Service.

(a) All notices, pleadings, and other papers filed with the presiding officer shall be served upon all counsel and representatives of record and upon unrepresented parties or upon their agents designated by them or by law.

~~((2))~~ (b) Service shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail ~~((,;); by telegraph; by electronic telefacsimile transmission));~~ by fax and same-day mailing of copies; or by commercial parcel delivery company.

~~((3))~~ (c) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by ~~((telegraph shall be regarded as completed when deposited with a telegraph company properly addressed and with charges prepaid. Service by electronic telefacsimile transmission))~~ fax shall be regarded as completed upon production by the ~~((telefacsimile device))~~ fax machine of confirmation of transmission. Service by commercial parcel delivery shall be regarded as completed upon delivery to the parcel delivery company, properly addressed with charges prepaid.

~~((4))~~ ~~Papers required to be filed with the agency shall be deemed filed upon actual receipt during office hours at any office of the agency. Papers required to be filed with the presiding officer shall be deemed filed upon actual receipt during office hours at the office of the presiding officer.~~

~~((5))~~ (3) Proof of service. Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate ~~((did on the date of the certificate serve))~~ served the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names((:))),

(c) A certificate that the person signing the certificate ~~((did on the date of the certificate serve))~~ served the papers upon all parties of record in the proceeding by:

(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(ii) ~~((Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or his or her attorney or authorized agent; or~~

~~((iii))~~ Transmitting a copy thereof by ~~((electronic telefacsimile device))~~ fax, and on the same day mailing a copy, to each party to the proceeding or his or her attorney or authorized agent; or

~~((iv))~~ (iii) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

PROPOSED

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-120 Adjudicative proceedings—Subpoenas.** (1) Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.05.446 and 5.56.010.

(2) Every subpoena shall identify the party causing issuance of the subpoena and shall state the name of the agency and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control at the time and place set for the hearing.

(3) A subpoena may be served by any suitable person over 18 years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit or declaration under penalty of perjury.

(4) The presiding officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (a) quash or modify the subpoena if it is unreasonable and oppressive or (b) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-130 Adjudicative proceedings—Prehearing conference.** (1) The presiding officer upon his or her own motion or upon request of a party may direct the parties or their representatives to engage in a prehearing conference or conferences to consider:

- (a) Simplification of issues;
- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;
- (d) Limitations on the number and consolidation of the examination of witnesses;
- (e) Procedural matters;
- (f) Distribution of written testimony and exhibits to the parties prior to the hearing;
- (g) Such other matters as may aid in the disposition or settlement of the proceeding.

(2) Prehearing conferences may be held by telephone conference call or at a time and place specified by the presiding officer.

(3) Following the prehearing conference, the presiding officer shall issue an order reciting the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties concerning all of the matters considered. If no objection to such notice is filed within ten days after the date such notice is mailed, it shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(4) In any proceeding the presiding officer may, in his or her discretion, conduct a conference prior to the taking of testimony, or may recess the hearing for such conference, for the purpose of carrying out the purpose of this rule. The presiding officer shall state on the record the results of such conference.

(5) Nothing in this rule shall be construed to limit the right of ~~((any party))~~ an agency to attempt informal settlement of an adjudicative proceeding at any time.

NEW SECTION

**WAC 10-08-135 Summary judgment.** A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

AMENDATORY SECTION (Amending Order 6, filed 6/15/89)

**WAC 10-08-140 Adjudicative proceedings—Evidence.** (1) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of RCW 34.05.452.

(2) Where practicable, the presiding officer may order:

(a) That all documentary evidence which is to be offered during the hearing or portions of the hearing be submitted to the presiding officer and to the other parties sufficiently in advance to permit study and preparation of cross-examination and rebuttal evidence;

(b) That documentary evidence not submitted in advance as required in (a) of this subsection be not received in evidence in the absence of a clear showing that the offering party had good cause for his or her failure to produce the evidence sooner, unless it is submitted for impeachment purposes;

(c) That the authenticity of all documents submitted in advance in a proceeding in which such submission is required be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

(3) When portions only of a document are to be relied upon, the offering party shall identify the pertinent excerpts and state the purpose for which such materials will be offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) No former employee of the agency shall appear, except with the permission of the agency, as an expert witness on behalf of other parties in a proceeding in which he or she previously took an active part in the investigation as a representative of the agency.

(5) The refusal of a witness to answer any question which has been ruled to be proper shall, in the discretion of the presiding officer, be ground for striking all testimony previously given by such witness on related matter.

(6) Any party bound by ~~((f))~~ a stipulation or admission of record may, at any time prior to closure of the hearing, be permitted to withdraw the same in whole or in part by showing to the satisfaction of the presiding officer that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

**AMENDATORY SECTION** (Amending WSR 93-10-097, filed 5/5/93, effective 6/5/93)

**WAC 10-08-150 Adjudicative proceedings—Interpreters.** (1) When an impaired person as defined in ~~((RCW))~~ chapter 2.42 RCW or a non-English-speaking person as defined in ~~((RCW))~~ chapter 2.43 RCW is a party or witness in an adjudicative proceeding, the presiding officer shall appoint an interpreter to assist the party or witness throughout the proceeding. Appointment, qualifications, waiver, compensation, visual recording, and ethical standards of interpreters in adjudicative proceedings are governed by the provisions of ~~((RCW))~~ chapters 2.42 and 2.43 RCW.

(2) Relatives of any participant in a proceeding and employees of the agency involved in a proceeding shall not be appointed as interpreters in the proceeding. This subsection shall not prohibit the office of administrative hearings from hiring an employee whose sole function is to interpret at administrative hearings.

(3) The presiding officer shall make a preliminary determination that an interpreter is able in the particular proceeding to interpret accurately all communication to and from the impaired or non-English-speaking person. This determination shall be based upon the testimony or stated needs of the impaired or non-English-speaking person, the interpreter's education, certifications, and experience in interpreting for contested cases or adjudicative proceedings, the interpreter's understanding of the basic vocabulary and procedure involved in the proceeding, and the interpreter's impartiality. The parties or their representatives may question the interpreter as to his or her qualifications and impartiality.

(4) If at any time during the proceeding, in the opinion of the impaired or non-English-speaking person, the presiding officer or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired or non-English-speaking person, the presiding officer shall appoint another interpreter.

(5) Mode of interpretation.

(a) Interpreters for non-English-speaking persons shall use the simultaneous mode of interpretation where the presiding officer and interpreter agree that simultaneous interpretation will advance fairness and efficiency; otherwise, the consecutive mode of foreign language interpretation shall be used.

(b) Interpreters for hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode that the interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired or non-English-speaking person is a party to a proceeding, the interpreter shall translate all statements made by other hearing participants. The presiding officer shall ensure that sufficient extra time is provided to permit translation and the presiding officer shall ensure that the interpreter translates the entire proceeding to the party to the extent that the party has the same opportunity to understand all statements made during the proceeding ~~((fas))~~ ~~((an))~~ as a nonimpaired or English-speaking party listening to uninterpreted statements would have.

(6) An interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law. An interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

(7) The presiding officer shall explain to the non-English-speaking party that a written decision or order will be issued in English, and that the party may contact the interpreter for an oral translation of the decision and that the translation itself is at no cost to the party. The interpreter shall provide to the presiding officer and the party the interpreter's telephone number. The telephone number shall be attached to the decision or order mailed to the party. A copy of the decision or order shall also be mailed to the interpreter for use in translation.

(8) If the party has a right to review of the order or decision, the presiding officer shall orally inform the party during the hearing of the right and of the time limits to request review.

(9) The agency involved in the hearing shall pay interpreter fees and expenses.

**AMENDATORY SECTION** (Amending Order 6, filed 6/15/89)

**WAC 10-08-160 Adjudicative proceedings—Testimony under oath or affirmation.** (1) Every person called as a witness in a hearing shall swear or affirm that the testimony he or she is about to give in the hearing shall be the truth according to the provisions of RCW 5.28.020 through 5.28.060. If the witness is testifying from outside the jurisdiction, the presiding officer may require the witness to agree to be bound by the laws of the state of Washington for purposes of the oath or affirmation.

(2) Every interpreter shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

**AMENDATORY SECTION** (Amending Order 6, filed 6/15/89)

**WAC 10-08-180 Adjudicative proceedings—Teleconference hearings.** (1) The presiding officer ~~((with the~~

PROPOSED

~~concurrence of the agency;))~~ may conduct all or part of the hearing by telephone, television, or other electronic means, if the rights of the parties will not be prejudiced and if each participant in the hearing has an opportunity to participate in, to hear, and, if technically and economically feasible, in the judgment of the presiding officer, to see the entire proceeding while it is taking place((, provided)). However, the presiding officer shall grant the motion of any party showing good cause for having the hearing conducted in person at a rescheduled time.

(2) Documentary evidence shall be submitted in advance as provided in WAC 10-08-140(2).

**AMENDATORY SECTION** (Amending Order 6, filed 6/15/89)

**WAC 10-08-200 Adjudicative proceedings—Presiding officer.** The presiding officer shall have authority to:

- (1) Determine the order of presentation of evidence;
- (2) Administer oaths and affirmations;
- (3) Issue subpoenas pursuant to RCW 34.05.446;
- (4) Rule on procedural matters, objections, and motions;
- (5) Rule on motions for summary judgment;
- (6) Rule on offers of proof and receive relevant evidence;

~~((6))~~ (7) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(8) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

~~((7))~~ (9) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

~~((8))~~ (10) Take official notice of facts pursuant to RCW 34.05.452(5);

(11) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

~~((9))~~ (12) Permit or require oral argument or briefs and determine the time limits for submission thereof;

~~((10))~~ (13) Issue an order of default pursuant to RCW 34.05.440;

(14) Hold prehearing conferences;

(15) Appoint a mediator or serve as mediator, provided that after serving as mediator, the presiding officer shall not conduct the hearing or issue a decision on the matter unless the parties specifically waive any objections to doing so;

(16) Take any other action necessary and authorized by any applicable statute or rule; and

~~((11))~~ (17) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver.

**AMENDATORY SECTION** (Amending Order 6, filed 6/15/89)

**WAC 10-08-210 Adjudicative proceedings—Initial or final order.** Every decision and order, whether initial or final, shall:

(1) Be correctly captioned as to the name of the agency and name of the proceeding;

(2) Designate all parties and representatives participating in the proceeding;

~~(3) ((Include a concise statement of the nature and background of the proceeding;~~

~~(4))~~ Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

~~((5))~~ (4) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;

~~((6))~~ (5) Contain an initial or final order disposing of all contested issues;

~~((7))~~ (6) Contain a statement describing the available post-hearing remedies.

**NEW SECTION**

**WAC 10-08-217 Shortened record on petition for review or appeal.** If a petition for review or appeal is made of an initial order, by stipulation the parties may agree to shorten the record to be filed with the entity considering the petition for review or appeal. Either party unreasonably refusing to stipulate to such a limitation, including shortening or selecting only portions of a transcript, may be ordered to pay the additional costs involved. For petitions for judicial review of a final order, see RCW 34.05.566.

**NEW SECTION**

**WAC 10-08-219 Correction of transcript.** Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing. If the parties agree and the presiding officer approves, transcript corrections may be incorporated into the record at any time during the hearing or after the close of evidence. All corrections must be made within ten calendar days after receipt of the transcript unless the presiding officer allows a different period.

**AMENDATORY SECTION** (Amending Order 6, filed 6/15/89)

**WAC 10-08-251 Declaratory orders—Procedural rights of persons in relation to petition.** If a petition for a declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the agency shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described in RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding. Pursuant to RCW 34.05.-240(7), the agency may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party if the person does not consent in writing to the determination of the matter by a declaratory ruling proceeding.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 10-08-260	Petition for rulemaking— Form, content and filing.
WAC 10-08-261	Petition for rulemaking— Consideration and disposition.

**Chapter 10-12 WAC****COMPLIANCE WITH STATE ENVIRONMENTAL  
(PROTECTION) POLICY ACT**

**AMENDATORY SECTION** (Amending Order 3, filed 11/1/82)

**WAC 10-12-010 Purpose.** The purpose of this chapter is to comply with and implement RCW 43.21C.120 directing every state agency to adopt rules pertaining to the integration of the policies and procedures of the State Environmental ~~(Protection)~~ Policy Act into the various programs under ~~(their)~~ its jurisdiction for implementation.

**AMENDATORY SECTION** (Amending Order 3, filed 11/1/82)

**WAC 10-12-020 Application.** Pursuant to WAC ~~(197-10-800)~~ 197-11-800, the office of administrative hearings has reviewed its authorized activities and found them to be exempt under the provisions of chapter ~~(197-10)~~ 197-11 WAC.

**Chapter 10-16 WAC****COMPLAINT PROCEDURES****NEW SECTION**

**WAC 10-16-010 Procedure for complaints regarding improper conduct of an administrative law judge.** (1) Administrative law judges must at all times adhere to the fundamental principles of law, fairly and equitably. Administrative law judges should be fair in their rulings and should conduct the proceedings in a judicious manner.

(2) Any interested party to an administrative proceeding may file a complaint alleging improper conduct of an administrative law judge. For purposes of this section, an interested party is a person who has a right to receive notice of the administrative hearing.

(3) A complaint concerning a decision or order shall be handled through the appeal or petition for review process. This includes initial or final orders and interim orders or discretionary rulings from which further appeal may be taken.

(4) A complaint concerning the conduct of an administrative law judge, apart from a decision from which further

appeal may be filed, shall be in writing and sent to the supervising administrative law judge.

(5) The written complaint must set forth in detail all pertinent facts and information. It shall include, among other things, the name of the administrative law judge, the date of the incident, the individuals present, and any other information which would assist in investigation of the complaint. The complaint should be no more than five pages.

(6) Within ten days of receipt of a written complaint, the supervising administrative law judge shall send a letter acknowledging receipt of the complaint. The supervising administrative law judge shall conduct an investigation of the complaint. For matters no longer pending before the office of administrative hearings at the time the complaint is filed, the supervising administrative law judge shall issue a written response to the complaining party within thirty days of receipt of the complaint. However, for matters pending before the office of administrative hearings at the time the complaint is filed, the supervising administrative law judge shall issue a written response within thirty days after issuance of the administrative law judge's decision. If additional time is needed, the supervising administrative law judge shall notify the complaining party in writing and indicate an expected response date.

(7) If, after investigation, the complaint is found to have merit, the supervising administrative law judge shall take appropriate corrective action. If disciplinary action is warranted, it shall be handled internally subject to the individual's privacy rights as in other personnel matters.

(8) Should the complaining party not be satisfied with the result of the investigation, he or she may request review of the complaint by the chief administrative law judge. The chief administrative law judge shall review all facts and information pertinent to the complaint and issue a written response. The response of the chief administrative law judge shall be final.

(9) Any inquiries concerning the grievance procedure may be made through the administrative office or any field office of the office of administrative hearings. A directory listing the names and mailing addresses of supervising administrative law judges, deputy chief administrative law judges and the chief administrative law judge will be available through these offices.

**WSR 99-17-108****WITHDRAWAL OF PROPOSED RULES  
DEPARTMENT OF LICENSING**

[Filed August 18, 1999, 10:21 a.m.]

The Department of Licensing withdraws WSR 99-15-097 filed with your office on July 21, 1999.

The Department of Licensing has a policy of providing equal access to its services. This correspondence is available in alternate format. Please call Pat Zlateff at (360) 902-3718 or TDD (360) 664-8885.

Deborah McCurley, Administrator  
Title and Registration Services

**WSR 99-17-109**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed August 18, 1999, 10:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-11-016.

Title of Rule: Chapter 308-96A WAC, Vehicle licenses, disabled person special parking privileges.

Purpose: 1. Rule making required as a result of implementation of chapter 136 of the laws passed during the 1999 session.

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

Statutory Authority for Adoption: RCW 46.12.276, 46.16.381, 46.01.110.

Statute Being Implemented: SSB 6009, chapter 136, Laws of 1999.

Summary: WAC 308-96A-306 Definitions—Disabled person special parking privileges (amended), WAC 308-96A-311 General provisions (amended), WAC 308-96A-313 Permanent disabled person parking placard/photo ID—Individual (amended), WAC 308-96A-314 Disabled person special license plates—Individual (amended), and WAC 308-96A-316 Permanent placard and disabled person special license plates for organizations (amended).

Reasons Supporting Proposal: Implementation of requirements of SSB 6009, remove the requirements for photo identification.

Name of Agency Personnel Responsible for Drafting: Patrick J. Zlateff, 1125 Washington Street S.E., Olympia, 902-3718, Implementation and Enforcement: Lynda Henriksen, 1125 Washington Street S.E., Olympia, 902-3811.

Name of Proponent: [Department of Licensing], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: 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 107, 1125 Washington Street S.E., Olympia, WA 98507, on September 24, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Patrick J. Zlateff by September 23, 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 September 23, 1999.

Date of Intended Adoption: October 15, 1999.

August 18, 1999

Deborah McCurley, Administrator  
 Title and Registration Services

AMENDATORY SECTION (Amending WSR 98-22-032, filed 10/29/98, effective 10/29/98)

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

(1) "Licensed physician" means, for the purpose of determining the disability that limits the ability to walk and meets the criteria set forth in RCW 46.16.381(1), a health care provider licensed by the department of health to provide health care whose scope of practice includes those areas covered in the statute. Licensed physician includes chiropractic physicians, naturopaths, medical doctors, osteopathic physicians and podiatric physicians. Licensed physician does not include persons licensed in the professions of dentistry and optometry.

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

(3) "Permit" means the eligibility for the temporary or permanent placard (~~(photo ID)~~) or special license plate(s) and identification card.

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

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

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

(7) "Expiration date" means:

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

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

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

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

(10) "Application" means the form provided by the department that must be completed by the individual and physician or the form that must be completed by the organization.

PROPOSED



**AMENDATORY SECTION** (Amending WSR 98-22-032, filed 10/29/98, effective 10/29/98)

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

In order to qualify for a disabled person parking privilege, a licensed physician must certify that you have a disability that limits or impairs the ability to walk and that you meet one of the requirements listed in RCW 46.16.381 (1)(a) through (g).

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

The types of placards you may receive are:

- (a) Temporary; or
- (b) Permanent.

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

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

**(4) Who may sign the application for the disabled person that is unable to sign or is a minor? When the disabled person is unable to sign or is a minor the application may be signed by an authorized representative of the disabled person. The application shall then be accompanied by a copy of one of the following:**

(a) A power of attorney;

(b) A Washington state court order or certification from the clerk of court confirming the court's action; or

(c) An affidavit explaining why the applicant is unable to sign for themselves and explaining the authorized representative's association to the disabled person.

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

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

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

**(6) Why is the identification card issued? The identification card is issued to assist law enforcement in determining that the person who is using the disabled person parking placard or special disabled parking license plate is the person to whom the privilege was issued.**

**(7) Must I present the identification card upon request of law enforcement? Yes. Your identification card must be shown upon request of any law enforcement officer, parking enforcement officer or volunteer appointed for purposes of issuing notices of parking infractions.**

**AMENDATORY SECTION** (Amending WSR 98-22-032, filed 10/29/98, effective 10/29/98)

**WAC 308-96A-312 Temporary disabled person parking placard and identification card. (1) Where and**

**how may I obtain a temporary disabled person parking placard and identification card?**

You may obtain a temporary disabled person parking placard (~~(by mail or at any vehicle licensing office or driver licensing licensing services office)~~) at Washington vehicle licensing offices and you will receive your identification card in the mail. You must submit a completed and signed application certified by a licensed physician.

**(2) How long ~~((does))~~ is the temporary disabled person parking placard ~~((last))~~ and identification card valid?**

The temporary disabled person parking placard (~~((may last))~~) and identification card is valid for up to six months from the date of issuance by the department.

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

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

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

If you wish to replace your temporary disabled person parking placard or identification card, complete and sign a statement explaining what happened to the placard or identification card. A new temporary disabled person parking placard or identification card will be issued indicating the original expiration date.

**(5) When is the temporary disabled person parking placard and identification card no longer valid?**

The placard is no longer valid:

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

**(6) What should I do when my temporary placard ~~((is))~~ and identification card are no longer valid? When your temporary placard and identification card are no longer valid, they should be destroyed.**

~~((You should destroy it.~~

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

~~You may receive one temporary placard.))~~

**AMENDATORY SECTION** (Amending WSR 98-22-032, filed 10/29/98, effective 10/29/98)

**WAC 308-96A-313 ~~((Permanent))~~ Disabled person parking placard~~((photo ID—Individual))~~ and identification card—For permanent disabilities. (1) Where ~~((may I obtain a permanent))~~ are disabled person parking placard(s) and ~~((photo ID))~~ identification cards issued to persons with a permanent disability?**

~~((You may obtain the))~~ Disabled persons parking placards for persons with a permanent ~~((disabled person parking placards and photo ID))~~ disability are issued at Washington

vehicle licensing offices. Identification cards ((only from drivers licensing licensing services offices)) may be applied for at the time the disabled placard is issued and will be mailed to you.

**(2) ~~((Why is the photo ID issued?)~~**

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

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

Yes.

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

You need:

(a) Completed application; and

(b) Proof of identity which includes the following:

(i) Washington drivers license;

(ii) Washington identification card;

(iii) Other valid identification document specified by RCW 46.20.035;

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

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

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

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

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

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

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

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

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

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

licensing services office. You will receive new permanent disabled person parking placards and a new photo ID.

**(9)) ~~When does disabled person parking placard(s) expire?~~ Disabled person parking placard(s) issued to persons with a permanent disability are issued for not less than five years from the month and year of issuance, and expires on the last day of the month specified on the placard. Example: If a permanent placard is marked to expire in May 2003, it expires on May 31, 2003.**

**(3) ~~What happens if the disabled person parking placard or identification card issued to persons with a permanent disability is lost, mutilated, destroyed, or stolen?~~ If you wish to replace your permanent disabled person parking placard or identification card that was issued to persons with a permanent disability, complete and sign a statement explaining what happened to the placard or identification card. A new disabled person parking placard or identification card will be issued indicating the original expiration date. The identification card will be mailed to you.**

**(4) ~~How do I renew my permanent disabled person parking placard(s) that were issued to persons with a permanent disability?~~ The department will mail you a renewal notice to qualifying individuals prior to expiration. The parking placard issued to persons with a permanent disability is renewed by submitting a completed renewal notice or new application with existing identification card at Washington vehicle licensing office. You will receive new disabled person parking placard that was issued to persons with a permanent disability and you will receive a new identification card in the mail.**

**(5) ~~When are the ((permanent)) disabled person parking placard(s) issued to persons with a permanent disability no longer valid?~~**

The ((permanent)) disabled person parking placard issued to persons with a permanent disability is no longer valid:

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

**((10) ~~If I qualify for a permanent~~) (6) ~~What do I receive when I apply for a disabled person parking privilege((how is the privilege identified)) for my permanent disability?~~**

You may receive:

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

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

If you have only one disabled person parking placard, you may obtain a second placard upon written request.

AMENDATORY SECTION (Amending WSR 98-22-032, filed 10/29/98, effective 10/29/98)

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

Disabled person special license plates and identification card are available at Washington vehicle licensing offices only. You will receive the identification card in the mail.

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

In order to receive disabled person special license plates:

(a) Your name must be shown on the department's record as being a registered owner of the vehicle; and

(b) You must submit a completed application certified by a licensed physician or have a disabled person privilege established with the department.

(3) **When do the disabled person special license plates and identification card expire?**

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

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

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

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

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

(a) The plates expire;

(b) The privilege expires;

(c) Upon death of the disabled person;

(d) If the disability no longer exists; or

(e) The disabled person special license plates have been cancelled by department administrative action; or

(f) If the privilege was issued in error.

~~((6))~~ (5) **How do I replace a disabled person's special license plates if they become lost, mutilated, destroyed, or stolen?**

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

AMENDATORY SECTION (Amending WSR 98-22-032, filed 10/29/98, effective 10/29/98)

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

~~((Only))~~ Qualifying organizations may only use disabled person special license plates or disabled person parking placards

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

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

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

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

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

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

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

(5) **Is a qualifying organization issued ~~((a photo ID))~~ an identification card?**

No. ~~((A photo ID may))~~ An identification card shall not be issued for an organization.

(6) **When does the permanent disabled person's parking placard(s) issued to a qualifying organization expire?**

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

(7) **When do the disabled person special license plates issued to a qualifying organization ~~((expire))~~ no longer valid?**

The disabled person special license plates ~~((reflect the expiration date of the vehicle registration and must be renewed annually))~~ are no longer valid when:

(a) The plates expire;

(b) The privilege expires;

(c) If the vehicle is no longer being used for the purpose of transporting disabled persons;

(d) The disabled person special license plates have been cancelled by department administrative action;

(e) The organization no longer qualifies;

(f) The organization's business license is cancelled or expires; or

(g) If the privilege was issued in error.

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

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

PROPOSED

date. This voids the previously issued permanent placards or plates.

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

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

**(10) When are ~~(the placard and disabled person special license plates)~~ disabled person parking placards, issued to qualifying organizations, no longer valid?**

~~(Placard(s) and disabled person special license plates)~~ Disabled persons parking placards are no longer valid when:

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

**WSR 99-17-110**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed August 18, 1999, 10:56 a.m.]

Supplemental Notice to WSR 99-13-050.

Preproposal statement of inquiry was filed as WSR 99-06-084.

Title of Rule: WAC 388-550-4500 Payment method—RCC.

Purpose: This proposed rule differs from the rule proposed under WSR 99-13-050. Because of the changes that have been made in the rule since the public hearing was held on July 27, 1999, the department is filing a supplemental notice. The department wishes to give stakeholders and the general public another opportunity to comment on the proposed rule.

Statutory Authority for Adoption: RCW 74.04.050, 74.08.090, 74.09.500.

Statute Being Implemented: RCW 74.08.090, 42 U.S.C. 1395x(v).

Summary: These amendments update the method by which the department calculates hospital ratio of costs-to-charges (RCC). This proposed rule differs from the previously proposed version by: Explaining more clearly how MAA calculates a hospital's ratio of costs-to-charges (RCC); specifying the percentage limit by which weighted average payments may be increased for certain hospitals; and explaining how MAA calculates a hospital's capped RCC.

Reasons Supporting Proposal: To update rule content to reflect current department policy.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alan McMullen, DOS/MAA, 623 8th Avenue S.E., Olympia, WA 98501, (360) 586-6698.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Reflects updated methods that the department uses to calculate hospital ratio of costs-to-charges (RCC). The purpose of the proposed amendments are to improve staff efficiency and customer compliance by reflecting current policy in rule, as well as clarify, consolidate, and reorganize the rule.

The anticipated effect is that the purpose stated above will be achieved.

Proposal Changes the Following Existing Rules: Amends rule listed in Title of Rule above to reflect current department policy in calculating hospital ratio of costs-to-charges (RCC).

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed amendments and concludes that no new costs will be imposed on the small businesses affected by them.

RCW 34.05.328 does not apply to this rule adoption. The rules do not fit the definition of a significant legislative rule.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on September 21, 1999, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by September 10, 1999, phone (360) 664-6094, TTY (360) 664-6178, e-mail wallpg@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) 664-6185, by September 21, 1999.

Date of Intended Adoption: September 30, 1999.

August 11, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 99-06-046, filed 2/26/99, effective 3/29/99)

**WAC 388-550-4500 Payment method—RCC.** (1) The ratio of costs-to-charges (RCC) payment is the hospital's allowable charges on a claim multiplied by the lesser of the hospital's RCC or capped RCC.

(a) MAA calculates a hospital's ratio of costs-to-charges (RCC) by dividing adjusted allowable (~~(operating)~~) costs by adjusted patient revenues associated with these allowable costs.

(b) MAA bases these figures on the annual Medicare cost report data provided by the hospital.

(c) MAA updates hospitals' RCC rates annually with the submittal of new HCFA 2552 Medicare cost report data. Prior to computing the ~~((ratio))~~ RCC, MAA excludes increases in operating costs or total rate-setting revenue attributable to a change in ownership.

~~((2))~~ (d) MAA limits a hospital's RCC ~~((to))~~ ratio at one hundred percent ~~((of its allowable charges. MAA recoups payments made to a hospital in excess of its customary charges to the general public)).~~

~~((3))~~ MAA establishes the basic hospital payment by multiplying the hospital's assigned RCC rate by the allowed charges for medically necessary services. MAA deducts client responsibility (spend down) or third party liability (TPL) as identified on the billing invoice or by MAA from the basic payment to determine the actual payment due from MAA for that hospital admission.

~~((4))~~

(2)(a) Except in the case of rural hospitals and Harbor-view Medical Center, weighted average payments under the ratio of costs-to-charges hospital payment system shall increase by no more than one hundred seventy-five percent of the DRI HCFA hospital reimbursement market basket index over the previous year's projected payment. Any necessary capping will be made by an adjustment to the hospital's RCC.

The hospital's capped RCC is equal to its allowable projected payments divided by the projected charges for the hospital.

The projected charges are based on the hospital's billed charges on paid claims and the average annual estimated charge increase. The average annual estimated charge increase is based on comparison of included hospitals' aggregate average charges from four prior years.

The next year's allowable projected payments equal the current projected charges multiplied by the product of the hospital's current RCC multiplied by one hundred seventy-five percent of the DRI HCFA hospital reimbursement market basket index factor.

Mathematically:

Average annual estimated charge increase= for all included hospitals:

Aggregate average charge for the fourth year minus aggregate average charge for the first year:

Divided by aggregate average charge for the first year, then;

The result divided by three.

Projected charges= billed charges x one hundred percent plus the average annual estimated charge increase.

Allowable projected payments= projected charges x product of current RCC or capped RCC x one hundred seventy-five percent DRI index factor.

(b) MAA also recoups payments made to a hospital in excess of its customary charges to the general public.

(3) MAA uses the RCC payment method to ~~((reimburse))~~ pay:

(a) MAA peer group A hospitals;

(b) Other DRG-exempt hospitals identified in WAC 388-550-4300; and

(c) ~~((Any hospital for))~~ DRG-exempt services described in WAC 388-550-4400.

~~((5))~~ (4) MAA ~~((deems the RCC for in-state and border area hospitals lacking sufficient HCFA 2552 Medicare cost report data the weighted average of the RCC rates for in-state hospitals))~~ uses the Washington in-state average RCC to pay for Washington in-state and border area hospitals that are exempted from the DRG payment method and do not have a HCFA 2552 Medicare cost report.

~~((6))~~ (5) MAA calculates ~~((an outpatient ratio of costs-to-charges by dividing the projected costs by the projected charge multiplied by the average RCC.~~

(a) In no case may the outpatient adjustment factor exceed 1.0:

(b) The outpatient adjustment factor is updated annually effective November 1) the hospital's specific outpatient RCC by multiplying the hospital specific inpatient RCC by the outpatient adjustment factor. The outpatient adjustment factor:

(a) Is the projected costs divided by the product of the projected charges multiplied by the in-state average RCC.

(b) Is limited at 1.00.

(c) Is updated annually on November 1.

PROPOSED



**WSR 99-15-033**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF AGRICULTURE**

[Filed July 14, 1999, 3:37 p.m.]

Title of Rule: General pesticide regulations, chemigation and fertigation regulations, wood destroying organism regulations.

Purpose: Revised WAC numbers to group related regulations, dropped unnecessary regulations, revised conflicting

sections, made minor, nonsubstantive revisions to existing sections for clarity, made new WAC section for chemigation and fertigation regulations.

Other Identifying Information: Regulations contained in chapters 16-10, 16-228, and 16-200 WAC.

Statutory Authority for Adoption: Chapters 15.58, 17.21, and 15.54 RCW.

Statute Being Implemented: Same.

Summary:

New WAC Number	Old WAC Number	Content	Changes
16-228-1010	16-228-010 16-10-010 RCW 17.21.020(26)	Definitions	Insert "Complainant" (from WAC 16-10-010). Insert "Landscape Application" (as per RCW 17.21.020(26)). Insert "Person" (from WAC 16-10-010), Insert "Person Aggrieved" (from WAC 16-10-010), Re-sequence numbers.
16-228-1020	<b>16-10-020</b>	Rights of complainants	Leave as is for present, currently working with Attorney General (A.G.) for revision using full APA process.
16-228-1030	<b>16-10-030</b>	Rights of persons aggrieved	Leave as is for present, currently working with A.G. for revision using full process.
16-228-1040	16-228-233	Investigative response time	No changes.
16-228-1100	<b>16-228-905</b>	Statement of purpose - Penalty assignment	Leave as is for present, currently working with A.G. for revision using full process.
16-228-1110	<b>16-228-910</b>	Definitions - Penalty assignment	Leave as is for present, currently working with A.G. for revision using full process.
16-228-1120	<b>16-228-915</b>	Calculation of penalty	Leave as is for present, currently working with A.G. for revision using full process.
16-228-1130	<b>16-228-920</b>	Penalty assignment schedule - Table A	Leave as is for present, currently working with A.G. for revision using full process.
16-228-1140	<b>16-228-925</b>	Penalty assignment schedule - Table B	Leave as is for present, currently working with A.G. for revision using full process.
16-228-1150	<b>16-228-930</b>	Other dispositions of alleged violations	Leave as is for present, currently working with A.G. for revision using full process.
16-228-1200	16-228-160	Restriction on distribution, transportation, storage and disposal	No changes.
16-228-1220	16-228-185	Restrictions applying to any person holding, handling, using, or disposing of pesticides and their containers	Drop - monocrotophos (Azodrin), Dementon (Systox), Aldicarb (Temik), TEPP, Mevinphos (Phosdrin), Zinophos. Products either no longer allowed for any use or cannot be applied by air. Full adoption process for storage.
16-228-1230	16-228-164	State restricted use pesticides for use by certified applicators only	Moved subsection 4 to WAC 16-228-1300 and incorporated. Changed (2)(b) to "in quantities larger than one gallon." Add "for purposes of this section" to the end of (3)(d). Deleted dealer statement - covered in WAC 16-228-1300.

EXPEDITED ADOPTION

Deleted	16-228-155	Pesticides-not for distribution to home and garden users	Dropped DiNitro-O-Sec Butyl (DNOSBP), Ethion (26% and above), Hydrogen Cyanide (Hydrocyanic acid) (HCN). Products no longer allowed for use. Endothall, Guthion and Methyl Bromide federally restricted use. Moved Strychnine to WAC 16-228-1230(c).
16-228-1240	16-228-166	Aquatic pesticides	Change WAC reference number (in text) to WAC 16-228-1330(1).
16-228-1250	16-228-162	Phenoxy herbicide restrictions	Possible removal of "Provided" section on shaker cans - (no registrations).
16-228-1260	16-228-227	Tributyl tin	No changes.
16-228-1270	16-228-600	Use of pesticides on small seeded vegetable seed crops and seed alfalfa	No changes.
16-228-1300	16-228-161 16-228-155(2) 16-228-164(2)	Distribution records	Moved WAC 16-228-164 (4)(a-g) here. Moved WAC 16-228-155(2) here. Deleted WAC 16-228-161, moved sentence.
16-228-1320	<b>16-228-190</b>	Applicator requirements	Probable changes using full adoption process. Changed WAC reference to WAC 16-228-1320(1).
16-228-1330	16-228-195	Compliance with federal requirements	Combine with WAC 16-228-1560 (FAA Certificate).
16-228-1370	16-228-157	Waste pesticide disposal	No changes.
16-228-1380	16-228-225	Regulation of application of vertebrate control pesticides	(2) Moved requirement for dye/discolor for 1080 bait and solutions to WAC 16-228-1385, modify (to be consistent) - warehouse and size of letters and moved subsection (3)(c) to 16-228-1380, add "certified" to (3)(d).
	16-228-14501	Sale or possession of sodium floracetate, fluoracetamide, and phosphorus pastes	Dropped WAC - covered in WAC 16-228-1385.
16-228-1385	16-228-230	Special restrictions on the use of Compounds 1080, 1081, and phosphorus pastes	Changed WAC reference number to new WAC number, added dye/discolor wording, modified wording regarding warehouse/letter size to adopt newest regulation, corrected error in reference to WAC 16-228-255(10).
<b>General Pesticide Regulations - Registration</b>			
16-228-1400	16-228-115	Pesticide labeling requirements	No changes.
16-228-1410	16-228-117	Home and garden products-definition	Changed title - drop "fee." Dropped subsections (2) and (3) - No fees applied now.
16-228-1420	16-228-116	Complete pesticide formula	No changes.
16-228-1430	16-228-145	Adequate containers	No changes.
16-228-1440	16-228-120	Artificial coloring	No changes.
16-228-1450	16-228-130	Pesticide-fertilizer registration and labeling	No changes.
16-228-1455	16-228-140	Pesticide-fertilizer mix restrictions	No changes.

EXPEDITED ADOPTION



16-228-1460	16-228-125	Experimental use permits	No changes.
<b>General Pesticide Regulations - Licensing</b>			
16-228-1500	<i>16-228-180</i>	License denied, revoked or suspended	Leave as is for now, significant changes - will require full adoption process.
16-228-1520	<i>16-228-210</i>	Financial responsibility insurance certificate (FRIC)	Leave as is for now, one significant change which will require full adoption process being proposed for Phase II.
16-228-1530	16-228-020	Application fee and pesticide licenses - Renewal dates - Penalties	Deleted (2) - These licenses are annual now, added WAC 16-228-215(1) here.
16-228-1540	<i>16-228-220</i>	Examination requirements	Leave as is for now, will require full adoption process for changes.
16-228-1550	16-228-214	Apparatus display signs	No changes.
16-228-1555	16-228-213	Requirements on placement of commercial applicator apparatus license plates and windshield identification	No changes.
16-228-1570	16-228-172	Permits	No changes.
16-228-1580	16-228-168	Change of exemptions	No changes.
16-228-1585	16-228-223	Ground maintenance on an occasional basis-exempt from licensing requirements	No changes.
16-228-1590	16-228-170	Pesticide dealer and dealer manager license	No changes.
<b>Possible New WAC Section - New number 16-228-xxxx</b>			
16-228-1545?	<i>New</i>	Examination categories minimum passing score	Possible new section using full APA adoption process.
16-228-xxxx	<i>New</i>	Schedule for sign removal and size	To implement RCW 17.21.410 (4) Landscape applications.
<b>New WAC Section</b>			
16-228-2000	16-228-400	Inspection and reporting criteria for complete wood destroying organism inspection	No changes.
16-228-2020	16-228-410	Inspection and report prerequisite to wood destroying organism treatment	No changes.
16-228-2030	16-228-420	Limited wood destroying organism inspections	No changes.
16-228-2040	16-228-430	Reporting criteria for limited wood destroying organism inspections	No changes.
<b>New WAC - Application of Pesticides and Nutrients Through Irrigation Systems</b>			
<b>WAC 16-202</b>			
16-202-1000	<i>16-228-232</i>	Chemigation	Possible significant changes, will need full adoption process.
16-202-2000	<i>16-200-742</i>	Fertigation	Possible significant changes, will need full adoption process.
<b>DROPPED SECTIONS</b>			
	16-228-143	PIRT Surcharge	No longer applies.
	16-228-117 (2)(3)	PIRT Surcharge	No longer applies.

EXPEDITED ADOPTION

	16-228-155	Not for distribution to home and garden	All products are restricted use Strychnine moved to WAC 16-228-1230(c).
	16-228-650	Declaration of an agricultural emergency	Adopted in chapter 16-233 WAC.
	16-228-655	Agricultural activities permitted under an agricultural emergency	Adopted in chapter 16-233 WAC.
	16-228-660	Record keeping required for an agricultural emergency	Adopted in chapter 16-233 WAC.
	16-228-14501	Compounds 1080,1081 and phosphorus	Adopted in WAC 16-228-1380.
	16-228-215	FAA certificate	Covered in WAC 16-228-1380. Pesticide exam form and fee moved to WAC 16-228-1530(8).

**bold/italic** - proposed for Phase II changes

Reasons Supporting Proposal: Rule revision mandate.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Pesticide Management, Natural Resources Building, Olympia, Washington, (360) 902-2010.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Revision of general pesticide regulations for clarity. Delete old regulations and set up sections for wood destroying organisms and chemigation/fertigation. See Summary above.

Proposal Changes the Following Existing Rules: See Summary above.

#### 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 Ann Wick, Washington State Department of Agriculture, P.O. Box 42589, Olympia, WA 98404-2589 [98504-2589], (360) 902-2051, fax (360) 902-2093, AND RECEIVED BY October 18, 1999.

July 13, 1999

Bob Arrington

Assistant Director

#### Chapter 16-228

#### GENERAL PESTICIDE REGULATIONS

#### NEW SECTION

**WAC 16-228-1010 Definitions.** The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Agricultural commodity" means any plant, or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Agricultural emergency" means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a pesticide treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss.

(3) "Authorized agent" is any person who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides.

(4) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated synthetic material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized persons and domestic animals from gaining access to the bait. The cover shall be provided with a lock that can be unlocked only by a combination, key, special tool, or forced entry. Fragile materials are unacceptable.

(5) "Bait station" may be any location where baits are placed to allow target pests to gain access to the bait.

(6) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

(7) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesti-

cide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

(8) A "complainant" is defined as a person who has requested an inspection of an area in which a pesticide violation is believed to have occurred.

(9) "Complete wood destroying organism inspection" means (a) an inspection of a structure for the purpose of determining (i) evidence of infestation(s), and (ii) damage, and (iii) conducive conditions; or (b) any wood destroying organism inspection which is conducted as the result of a telephone solicitation by an inspection firm or pest control business, even if the inspection would otherwise fall within the definition of a limited wood destroying organism inspection.

(10) "Conducive conditions" means those conditions which may lead to or enhance an infestation of wood destroying organisms.

(11) "Controlled disposal site" means any place where solid or liquid waste is disposed: *Provided*, That the area has been designated as a disposal site for waste materials by the appropriate jurisdictional agency: *Provided further*, That the site is fenced, barricaded or otherwise enclosed or attended by some person in charge to facilitate control-access of domestic animals, pets, and unauthorized persons.

(12) "Department" means the Washington state department of agriculture.

(13) "Diluent" means a material, liquid or solid, serving to dilute the pesticide product to field strength for adequate coverage (such as water).

(14) "Director" means the director of the department or a duly authorized representative.

(15) "Dry pesticide" is any granular, pelleted, dust or wettable powder pesticide.

(16) "EPA" means the United States Environmental Protection Agency.

(17) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

(18) "Fertilizer" as included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

(19) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended (61 stat. 163, 7 U.S.C. Sec. 136 et seq.).

(20) "Floor level" is considered to be the floor upon which people normally walk—not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

(21) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where

food is served or provided for the public with or without charge.

(22) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to kill pests in some kind of enclosure.

(23) "Highly toxic pesticide" for the purpose of this chapter, means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity Category I due to oral inhalation or dermal toxicity.

(24) "Landscape application" means an application by a certified applicator of any EPA registered pesticide to any exterior landscape plants found around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by certified private applicators; (b) mosquito abatement, gypsy moth eradication, or similar wide-area pest control programs sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

(25) "Limited wood destroying organism inspection" means the inspection of a structure for purposes of identifying or verifying evidence of an infestation of wood destroying organisms.

(26) "Person" is defined as any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(27) A "person aggrieved" by a violation is defined as a person who has reasonable grounds to believe that he or she has been subjected to harm or an unreasonable risk by such violation.

(28) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators by the director for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the private applicator or the applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

(29) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

(30) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters 17.21 and 15.58 RCW that are restricted to use only by certified applicators.

(31) "Substantial economic loss" means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

(32) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(33) "Waste pesticide" is any pesticide formulation which cannot be used according to label directions in Washington state because of cancellation or suspension of its federal or state registration, or deterioration of the product or its label, and any pesticide formulation whose active ingredients are not clearly identifiable because of label deterioration or because the pesticide is not stored in its original container.

(34) "Wood destroying organisms" means those organisms including, but not limited to, subterranean termites, dampwood termites, carpenter ants, wood boring beetles of the family anobiidae (deathwatch beetle), and wood decay fungus (rot). Wood destroying organisms shall not include such organisms which occurred prior to the manufacturing or processing of the lumber, e.g., pocket rot.

(35) "Wood destroying organism inspection" means the service of inspecting a building for the presence of wood destroying organism pests destructive to its structural components, and/or their damage, and/or conducive conditions. For purposes of these rules a wood destroying organism inspection shall be either a "complete wood destroying organism inspection" or a "limited wood destroying organism inspection."

#### NEW SECTION

**WAC 16-228-1020 Rights of complainants.** If an inspection is conducted by the department of an area in which a pesticide violation is believed to have occurred, a complainant shall:

(1) Be promptly provided with the department's decision, as set forth in the "notice of intent to assess civil penalty and/or deny, suspend, or revoke a license," or in any document issuing a warning or determining no action; the department will endeavor to provide notice concurrently with the department's service of such document on the alleged violator.

(2) Be entitled, upon written request to the department, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to chapter 17.21 RCW: Provided, That in any adjudicative proceeding under chapter 34.05 RCW the identity of complainant shall be disclosed to the alleged violator upon request of the alleged violator.

(3) Be otherwise entitled to those rights of persons aggrieved as set forth in WAC 16-228-1030, if aggrieved, except that the complainant shall be provided, automatically without request, a copy of the final order referred to therein.

#### NEW SECTION

**WAC 16-228-1030 Rights of person aggrieved.** A person aggrieved shall:

(1) Be entitled to be notified promptly of any final action taken by the department pursuant to an investigation under

chapter 17.21 RCW; the department will provide notice concurrently with service of notice on the violator: Provided, That such person has made timely written application to the department requesting such notice. Written application to the department requesting such notice shall be received no later than the date of service of a final order.

(2) Within thirteen days of the date of mailing of a final order to a person aggrieved, the person aggrieved may request in writing that the director reconsider the matter, shall specify in writing why said person believes the penalty decision is inappropriate, and shall serve such request on the violator.

(3) Upon reconsideration, the director will reconsider the entire matter including any written statement submitted by any party, and may adjust the penalty decision set forth in the final order if the director finds that the penalty was inappropriate.

(4) If such person is aggrieved by the director's order on reconsiderations, within twenty days of service of the order he or she may request in writing an adjudicative proceeding under chapter 34.05 RCW, shall specify in writing why the person believes the penalty decision is inappropriate, and shall serve such request on the alleged violator. The subject of such proceeding shall be limited to the appropriateness of the penalty decision of the director on reconsideration based on a review of the record as supplemented by any new evidence received by the presiding officer. The alleged violator shall be given notice and an opportunity to participate in the proceeding by the department. The proceeding shall be heard by a presiding officer who has not heard the adjudicative proceeding on the merits against the alleged violator. Chapter 34.05 RCW and chapter 16-08 WAC shall govern the conduct of such proceeding and any review thereon.

(5) Upon the filing of any request for proceeding pursuant to subsection (2) of this section, any final order of the director shall be automatically stayed pending resolution of such request and expiration of any time period for pursuing additional relief. The director shall provide written notice to the alleged violator of any such resolution, thereby reinstating the rights of the alleged violator to seek further relief.

#### NEW SECTION

**WAC 16-228-1040 Investigative response time.** Upon receipt of a verified report of loss as set forth in RCW 17.21.190, the department shall initiate an investigation. Investigation of a complaint concerning immediate acute pesticide exposure to humans or animals shall be initiated immediately. Other complaint investigations shall be initiated no later than forty-eight hours after receipt of the verified report of loss.

#### NEW SECTION

**WAC 16-228-1100 Statement of purpose—Penalty assignment.** For the purpose of fair, uniform determination of penalty as set forth in WAC 16-228-1110 through 16-228-1150, the director hereby declares:

(1) Regulatory action is necessary to deter violations of the pesticide laws and rules, and to educate persons about the consequences of such violation(s); and

(2) Any regulatory action taken by the department against any person who violates the provisions of chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder shall be commensurate with the seriousness of the violation under the circumstances; and

(3) Each person shall be treated fairly in accordance with the rules set forth in this chapter.

#### NEW SECTION

##### **WAC 16-228-1110 Definitions—Penalty assignment.**

In addition to the definitions set forth in RCW 17.21.020, 15.58.030, and WAC 16-228-1010, the following shall apply to WAC 16-228-1100 through 16-228-1150:

(1) "Adverse effect(s)" means a possibility of pesticide exposure that could cause damage or injury to humans, animals, plants, or the environment.

(2) "Knowingly" means that the alleged violator knew or should have known that conditions existed that would result in adverse effect(s) or knew that a violation would occur.

(3) "Level of violation" means that the alleged violation is a first, second, third, fourth, fifth, or more violation(s).

(a) First violation. This means the alleged violator has committed no prior incident(s) which resulted in a violation or violations within three years of committing the current alleged violation.

(b) Second violation. This means the alleged violator committed one prior incident which resulted in a violation or violations within three years of committing the current alleged violation.

(c) Third violation. This means the alleged violator committed two prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(d) Fourth violation. This means the alleged violator committed three prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(e) Fifth or more violation. This means the alleged violator committed at least four prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(4) "Not probable" means that the alleged violator's conduct more likely than not would not have an adverse effect.

(5) "Probable" means that the alleged violator's conduct more likely than not would have an adverse effect.

(6) "Unknowingly" means that the alleged violator did not act knowingly.

(7) "Violation" means commission of an act or acts prohibited by chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder.

#### NEW SECTION

**WAC 16-228-1120 Calculation of penalty.** (1) Median penalty selection. In the disposition of administrative cases, the department shall determine the penalty by first determin-

ing the penalty assignment schedule table listed in either WAC 16-228-1130 or 16-228-1140 that is applied based on the type of violation alleged. The department shall then determine the penalty range based on the level of violation, adverse effect(s) at the time of the incident(s) giving rise to the violation, and the knowledge of the alleged violator. The median penalty is then selected as the penalty unless a proportionate adjustment is required and/or there are aggravating or mitigating factors as provided herein. The median penalty under Table A listed in WAC 16-228-1130 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation in the penalty assignment schedule table. The median penalty under Table B listed in WAC 16-228-1140 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation. The median penalty under Table A and B may not be proportionately adjusted and/or mitigated to a level less than the minimum penalty listed for the violation.

(2) Proportionate adjustment of median penalty. The department reserves the right to proportionately increase the civil penalty and proportionately decrease the licensing action when circumstances in the particular case demonstrate the ineffectiveness of the licensing action as a deterrent including but not limited to violations by persons who are not licensed and violations by certified private applicator(s), or proportionately decrease the civil penalty and proportionately increase the licensing action when circumstances in the particular case demonstrate the ineffectiveness of a civil penalty action as a deterrent.

(3) Aggravating factors. The department may consider circumstances enhancing the seriousness of the violation, including, but not limited to, the following:

(a) Each separate additional incident of violation(s) alleged within a single notice of intent to have been committed by the alleged violator within the same calendar year.

(b) The high magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

(c) The similarity of the current alleged violation to previous violations that occurred within three years of the current alleged violation.

(d) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct by others which necessitates a greater deterrent factor.

(4) Mitigating factors. The department may consider circumstances reducing the seriousness of the violation including, but not limited to, the following:

(a) A voluntary disclosure of a violation by the alleged violator.

(b) The low magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

#### NEW SECTION

**WAC 16-228-1130 Penalty assignment schedule-Table A.** Pesticide use, application, disposal, licensing, distribution, recommendation, and label violations (See WAC 16-228-1150 for other dispositions of alleged violations, including warning letters.)

Level of Violation	Adverse Effect(s)	Unknowingly			Knowingly		
		Minimum	Median	Maximum	Minimum	Median	Maximum
First	a. Not probable	\$100 and 1 day suspension	\$200 and 3 days suspension	\$300 and 5 days suspension	\$200 and 3 days suspension	\$300 and 5 days suspension	\$400 and 7 days suspension
	b. Probable	\$150 and 1 day suspension	\$250 and 3 days suspension	\$350 and 5 days suspension	\$250 and 3 days suspension	\$350 and 5 days suspension	\$450 and 7 days suspension
Second	a. Not probable	\$200 and 3 days suspension	\$300 and 5 days suspension	\$400 and 7 days suspension	\$300 and 5 days suspension	\$400 and 7 days suspension	\$500 and 9 days suspension
	b. Probable	\$300 and 3 days suspension	\$350 and 5 days suspension	\$450 and 7 days suspension	\$350 and 5 days suspension	\$450 and 7 days suspension	\$550 and 9 days suspension
Third	a. Not probable	\$400 and 10 days suspension	\$700 and 15 days suspension	\$1000 and 20 days suspension	\$500 and 10 days suspension	\$1000 and 20 days suspension	\$1500 and 30 days suspension
	b. Probable	\$500 and 10 days suspension	\$1800 and 20 days suspension	\$3000 and 25 days suspension	\$700 and 20 days suspension	\$2100 and 30 days suspension	\$3500 and 40 days suspension
Fourth	a. Not probable	\$600 and 15 days suspension	\$1800 and 20 days suspension	\$3000 and 25 days suspension	\$700 and 20 days suspension	\$2100 and 30 days suspension	\$3500 and 40 days suspension
	b. Probable	\$700 and 20 days suspension	\$2100 and 30 days suspension	\$3500 and 40 days suspension	\$800 and 30 days suspension	\$2400 and 40 days suspension	\$4000 and 50 days suspension
Fifth or More	a. Not Probable	\$800 and 20 days suspension	\$3400 and 40 days suspension	\$6000 and 60 days suspension	\$900 and 50 days suspension	\$3700 and 60 days suspension	\$6500 and 7 days suspension
	b. Probable	\$900 and 50 days suspension OR DENIAL OR REVOCATION	\$3700 and 60 days suspension OR DENIAL OR REVOCATION	\$6500 and 70 days suspension OR DENIAL OR REVOCATION	\$1000 and 50 days suspension OR DENIAL OR REVOCATION	\$4250 and 70 days suspension OR DENIAL OR REVOCATION	\$7500 and 90 days suspension OR DENIAL OR REVOCATION

EXPEDITED ADOPTION

**NEW SECTION**

**WAC 16-228-1140 Penalty assignment schedule—Table B.** Records, posting of storage for category one pesticides, removal of examination material, and impersonating state official other violations not listed in Table A (See WAC 16-228-1150 for other dispositions of alleged violations, including warning letters.)

(WAC 16-228-1140 Table B)

Level of Violation	Adverse Effect(s)	Unknowingly			Knowingly		
		Minimum	Median	Maximum	Minimum	Median	Maximum
First	a. Not probable	\$100 and 1 day suspension	\$150 and 2 days suspension	\$200 and 3 days suspension	\$150 and 2 days suspension	\$200 and 3 days suspension	\$250 and 4 days suspension
	b. Probable	\$150 and 1 day suspension	\$200 and 2 days suspension	\$250 and 3 days suspension	\$200 and 2 days suspension	\$250 and 3 days suspension	\$300 and 4 days suspension
Second	a. Not probable	\$200 and 2 days suspension	\$250 and 3 days suspension	\$300 and 4 days suspension	\$250 and 3 days suspension	\$300 and 4 days suspension	\$350 and 5 days suspension
	b. Probable	\$250 and 2 days suspension	\$300 and 3 days suspension	\$350 and 4 days suspension	\$300 and 3 days suspension	\$350 and 4 days suspension	\$400 and 5 days suspension
Third	a. Not probable	\$300 and 3 days suspension	\$350 and 4 days suspension	\$400 and 5 days suspension	\$350 and 4 days suspension	\$400 and 5 days suspension	\$450 and 6 days suspension
	b. Probable	\$350 and 3 days suspension	\$400 and 4 days suspension	\$450 and 5 days suspension	\$400 and 4 days suspension	\$450 and 5 days suspension	\$500 and 6 days suspension
Fourth	a. Not probable	\$400 and 4 days suspension	\$450 and 5 days suspension	\$500 and 6 days suspension	\$450 and 5 days suspension	\$500 and 6 days suspension	\$550 and 7 days suspension
	b. Probable	\$450 and 4 days suspension	\$500 and 5 days suspension	\$550 and 6 days suspension	\$500 and 5 days suspension	\$550 and 6 days suspension	\$600 and 7 days suspension
Fifth or More	a. Not Probable	\$500 and 5 days suspension	\$550 and 6 days suspension	\$600 and 7 days suspension	\$550 and 6 days suspension	\$600 and 7 days suspension	\$650 and 8 days suspension
	b. Probable	\$550 and 5 days suspension	\$600 and 6 days suspension	\$650 and 7 days suspension	\$600 and 6 days suspension	\$650 and 7 days suspension	\$750 and 8 days suspension

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

NEW SECTION

**WAC 16-228-1150 Other dispositions of alleged violations.** Nothing herein shall prevent the department from:

- (1) Choosing not to pursue a case administratively.
- (2) Issuing a warning letter in lieu of pursuing administrative action.
- (3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

NEW SECTION

**WAC 16-228-1200 Restriction on distribution, transportation, storage and disposal.** (1) No person shall handle, transport, store, display, apply, dispose of or distribute pesticides in such a manner as to endanger humans and their environment or to endanger food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. Toxicities of pesticides shall be considered in distribution, storage, handling, and merchandising practices.

(2) Highly toxic pesticides shall not be transported in the same compartment of the vehicle or other equipment together with clothes, food, feed, or any other material intended for consumption by humans or animals. Any vehicle or other equipment shall be inspected by the owner or authorized agent for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the pesticides shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Vehicles or other equipment which have been contaminated shall not be returned to service until the contamination has been removed.

(3) Pesticide containers shall be secured during transit by use of side or end racks, bracing, chocks, tiedowns, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or change in direction.

(4) Valves shall be tightly closed and manhole covers shall be secured on cargo or portable tanks used for transporting pesticides, whether tanks are full or empty.

(5) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(6) Pesticides shall not be delivered to a pesticide consignee unless the consignee or authorized agent is present to accept delivery of the pesticides and signs a delivery slip and the pesticides are secured in a proper storage.

(7) Pesticides shall not be stored and/or displayed over or adjacent to meat or vegetable cases, other human foods, animal feeds, or drugs, or in any manner that may result in contamination of food, feed, or clothing. Pesticides intended for sale or distribution shall only be stored and displayed within an enclosed area of a building or fence and shall not be displayed on sidewalks.

(8) Pesticide dealers shall not sell, offer for sale, or hold for sale highly toxic pesticides in the same department where food for human consumption is displayed or sold. The use of the same "checkstand" or food packaging area is prohibited for the distribution of highly toxic pesticides.

(9) All pesticide incidents involving undesirable impacts on human health shall be reported to the Washington state department of social and health services.

(10) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner that would not contaminate the environment or cause injury to humans and/or animals. Pesticides with obscured or damaged labels shall not be displayed or offered for sale.

(11) No person shall distribute or sell any pesticide unless it is in the registrant's or the manufacturer's unbroken, immediate container and there is affixed to the container its registered pesticide label.

(12) A user of a pesticide may distribute a properly labelled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

(13) The distribution and use of DDT and DDD shall be prohibited in this state except for uses allowed by the Environmental Protection Agency or the Center for Disease Control of the United States Department of Health and Human Services.

NEW SECTION

**WAC 16-228-1220 Restrictions applying to any person holding, handling, using, or disposing of pesticides and their containers.** (1) Any person handling, applying, or disposing of pesticides or pesticide containers shall do so in such a manner to minimize hazard to commercially important pollinating insect species. Due care shall be taken to regulate the timing and technique of pesticide applications to or around blossoming plants.

(2) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants and animals, or wildlife: *Provided*, That a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection: *Provided further*, That disposing of pesticides at disposal sites approved by the appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

(3) No person shall pollute streams, lakes, and other water supplies in pesticide loading, mixing, and application. Adequate, functioning devices and procedures to prevent backsiphoning shall be used.

(4) None of the following pesticides shall be applied by aircraft or airblast sprayers immediately adjacent to occupied schools in session, hospitals, nursing homes or other similar

establishments under conditions that may result in contamination of these establishments or their premises:

- (a) Disulfoton (DiSyston)-Liquid
- (b) Parathion
- (c) Phorate (Thimet)-Liquid

(5) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, including humans, desirable plants or animals.

(6) Requirements for unattended pesticides and their containers:

(a) Good generally accepted housekeeping practices shall be maintained for all pesticides and their containers.

(b) The provisions of (d) and (e) of this subsection and subsection (7) of this section shall not apply to empty pesticide containers when adequately decontaminated (e.g., three successive rinsings); shall not apply to categories 2, 3, and 4 pesticide formulations labeled for home and garden use only.

(c) For the purposes of (d) and (e) of this subsection and subsection (7) of this section, pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.

(d) Category 1—Pesticides labeled with the signal word "danger" and their containers shall be stored in one of the following enclosures which, when unattended, shall be so constructed and locked (except (v) below) to prevent children, unauthorized persons, livestock, or other animals from gaining entry.

- (i) Closed vehicle.
- (ii) Closed trailer.
- (iii) Building or room or fenced area with a fence at least six feet high.
- (iv) Foot locker or other container which can be locked.
- (v) Unattended trucks or trailers which have solid sideracks and secured tailgate at least six feet above ground, ramp or platform level.

(vi) Bulk storage containers fifty gallons and larger with tight screw-type bungs and/or secured or locked valves.

(e) Category 2—pesticides labeled with the signal word "warning" and categories 3 and 4—pesticides labeled with the signal word "caution" and their containers shall be stored in secured storage out of the reach of children in one of the enclosures listed in (d) of this subsection: *Provided*, That metal containers, twenty-eight gallons and larger, with tight screw-type bungs and/or secured or locked valves and sealed five gallon containers (requiring tool to unseal) shall be considered secured storage.

(7) Requirements for posting of storage for category 1 pesticides:

(a) For purposes of this subsection, warning signs shall show the skull and crossbones symbol and the words: "Danger/Poison (or Pesticide or Chemical) Storage Area/Keep Out" in letters large enough to be legible at a distance of thirty feet.

(b) Warning signs shall be posted:

(i) On enclosures specified in subsection (6)(d) of this section, when such enclosures are unattended;

(ii) At each entrance or exit from a storage area and on each exterior wall, so that a sign is visible from any direction;

(iii) If the pesticide storage area is contained in a larger, multipurpose structure, warning signs shall be clearly visible on each exterior wall of the structure within thirty feet of the pesticide storage area and from the main entrance to the larger structure: *Provided*, That posting of the main entrance shall not be required, if a sign is visible from the entrance which clearly identifies the possibility that pesticides may be stored on the premises, (i.e., XYZ Pest Control or XYZ Wood Treatment, Inc.);

(8) No person shall disperse a pesticide or pesticide rinseate from any aircraft while in flight except over the target field and at the customary application height for that crop: *Provided*, That emergency dumping shall not be considered a violation of this section.

**NEW SECTION**

**WAC 16-228-1230 State restricted use pesticides for use by certified applicators only.** (1) Pesticides containing the following active ingredients are hereby declared state restricted use pesticides for the protection of groundwater and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator and only for those uses covered by the certified applicator's license category(s).

Common Chemical Name	Also Known As*
alachlor	Lasso
aldicarb	Temik
atrazine	
bromacil	Hyvar, Krovar
carbofuran	Furadan
cyanazine	Bladex
DCPA	Dacthal
1,3-dicloropropene	Telone
disulfoton	Di-Syston
diuron	Karmex, Krovar
heptachlor	
hexazinone	Velpar
metolachlor	Dual
metribuzin	Lexone, Sencor
oxamyl	Vydate
picloram	Tordon
prometon	Pramitol
simazine	Princep
tebuthiuron	Spike

\* This column is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) Pesticides defined by the following categories are hereby declared state restricted use pesticides and shall be

EXPEDITED ADOPTION



distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.

(a) Any EPA restricted use pesticide not listed in this rule.

(b) 2,4-D - all dry formulations and all liquid formulations distributed in quantities larger than one gallon to be used in counties located east of the crest of the Cascade Mountains. The following types of formulations are exempt from this requirement:

(i) Dry formulations labeled and intended for home and garden use only;

(ii) Liquid amine formulations of any concentration up to and including one gallon in size when purchased and used in all counties located east of the crest of the Cascade Mountains; and

(iii) One gallon containers of liquid amine formulations containing fifteen percent or less of restricted use herbicides, labeled for consumer use.

(c) Strychnine and its salts

(3) Pesticides which are not classified as EPA restricted use pesticides and which are labeled and intended only for the following uses are exempt from the requirements of this section:

(a) Home and garden use;

(b) Pet products;

(c) Cooling tower, air conditioner, industrial systems and humidifier biocides;

(d) Use within wholly enclosed structures (with floors) or fumigation chambers. Greenhouses are not considered as wholly enclosed structures for the purposes of this section.

#### NEW SECTION

**WAC 16-228-1240 Aquatic pesticides.** (1) All pesticide formulations labeled for application onto or into water to control pests in or on water are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator.

(2) Pesticides which are not classified as EPA restricted use pesticides and which are labeled only for the following uses shall be exempt from this section:

(a) Swimming pools

(b) Wholly impounded ornamental pools or fountains

(c) Aquariums

(d) Closed plumbing and sewage systems

(e) Enclosed food processing systems

(f) Air conditioners, humidifiers, and cooling towers

(g) Industrial heat exchange, air washing, and similar industrial systems

(h) Disinfectants

(i) Aquatic environments in states other than Washington

(3) Distribution of pesticides bearing combined labeling for uses into or onto water and for other uses may be made by licensed pesticide dealers to noncertified applicators, if the dealer indicates on the sales slip or invoice that the purchaser of the pesticide agrees that it is not to be applied into or onto water. If requested by the department, dealers shall furnish records on the sales of pesticides labeled for application into or onto water, whether sold for that use or not. Records shall include the name and address of the purchaser, the complete product name and/or EPA registration number of the pesticide and the amount purchased.

(4) Licensed dealers shall keep records as specified in WAC 16-228-1300(1) on each distribution of pesticides designated in subsection (1) of this section. The director shall have access to these records immediately upon request.

(5) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides designated in subsection (1) of this section by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.

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

#### NEW SECTION

##### **WAC 16-228-1250 Phenoxy herbicide restrictions.**

(1) The distribution, use and application of all high volatile ester and dust formulations of phenoxy herbicides shall be prohibited throughout the state.

(2) Pesticide dealers shall make available to the purchaser a copy of the rules pertaining to the use of dicamba and/or phenoxy hormone-type herbicides, including 2,4-D and MCPA, in the area in which the material will be applied.

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

#### NEW SECTION

**WAC 16-228-1260 Tributyltin.** (1) The distribution for use in Washington state of paint, stain, paint additives, or similar products containing any chemical form of tributyltin for use in interiors of inhabited structures (i.e., residences, office buildings, institutions, recreational vehicles, and retail stores) shall be prohibited: *Provided*, That this section shall not apply to specialty products, such as tile grout additives or cooling tower biocides.

(2) No tributyltin-containing paint, stain, paint additives, or similar products as specified in subsection (1) of this section may be registered for distribution unless its label clearly indicates that it shall not be used on interior surfaces of inhabited structures or that it shall be used on exterior surfaces only.

**NEW SECTION**

**WAC 16-228-1270 Use of pesticides on small seeded vegetable seed crops and seed alfalfa.** (1) For purposes of pesticide registration, the following crops, when grown to produce seed specifically for crop reproduction purposes, are considered nonfood and nonfeed sites of pesticide use:

Common Name	Synonyms
alfalfa	
arugula	Mediterranean salad, rucola, rockette, Ghargir
beet	
broccoli raab	Rapani, Choy Sum, Chinese flowering cabbage
Brussels sprouts	
cabbage	
carrot	
cauliflower	
Chinese cabbage	Pe-tsai
Chinese kale	Chinese broccoli
Chinese mustard	Pak Choi (Choy), Bok Choi (Choy) Taisai, celery mustard, spoon cabbage
collard	
coriander	cilantro
dill	
endive	
kale	bore kale
kohlrabi	
leek	
lettuce	
mustard	
onion (bulb)	
onion (bunching)	
parsley	
parsnip	
radish (other than daikon)	
rape	
rutabaga	
spinach	
spinach mustard	
swiss chard	spinach beet
turnip	

(2) For the seed crops listed in subsection (1) of this section, the following conditions shall be met:

(a) All seed screenings shall be disposed of in such a way that they cannot be distributed or used for food or feed. The seed conditioner shall keep records of screening disposal for three years from the date of disposal and shall furnish the records to the director forthwith upon request. Disposal

records shall consist of documentation from a controlled dump site, incinerator, or other equivalent disposal site and shall show the lot numbers, amount of material disposed of, its grower(s), and the date of disposal.

(b) No portion of the seed plant, including but not limited to green chop, hay, pellets, meal, whole seed, cracked seed, roots, bulbs, leaves and seed screenings may be used or distributed for food or feed purposes.

(c) All seed from the crops listed in subsection (1) of this section grown or conditioned in this state shall bear a tag or container label which forbids use of the seed for human consumption or animal feed.

(d) No seed from the crops listed in subsection (1) of this section grown or conditioned in this state may be distributed for human consumption or animal feed.

(3) Violation of any condition listed in subsection (2) of this section is declared to be a violation of chapters 17.21 and 15.58 RCW.

(4) Any seed crop certified under provisions of RCW 15.86.070, the Organic Food Products Act, shall be exempt from the requirements of this section.

**NEW SECTION**

**WAC 16-228-1300 Distribution records** (1) Pesticide dealers shall furnish records to the director immediately upon request on the distribution of any pesticide except those labeled only for home and garden. These requests shall be limited to records necessary for investigations of suspected violations, damage complaints, monitoring distribution and use under provisions of special local needs registrations, emergency exemptions from federal registration and experimental use permits, and monitoring of any pesticide suspected of unreasonable adverse effects on the environment. The records shall contain the following information:

- (a) Name and address of purchaser;
- (b) Name and address of certified applicator (if different from (a) above if applicable);
- (c) Name of authorized agent (if applicable);
- (d) Brand and specific pesticide name and/or EPA registration number;
- (e) Number of pounds or gallons of the pesticide distributed;
- (f) Date of distribution;
- (g) Certified applicator number (if applicable).

(2) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.

(3) Pesticide dealers shall keep records of distribution of state restricted use pesticides for a period of seven years from the date of distribution.

EXPEDITED ADOPTION

**NEW SECTION**

**WAC 16-228-1320 Applicator requirements.** (1) Certified applicators and all persons applying pesticides to more than one acre of agricultural land in a calendar year including public entities engaged in roadside spraying shall keep records on a form prescribed by the director which shall include the following:

(a) The name and address of the person for whom the pesticide was applied.

(b) The address or exact location of the land where the pesticide was applied. If the application is made to one acre or more of agricultural land, the field must be located on the map on the prescribed form.

(c) The year, month, day and time the pesticide was applied.

(d) The product name used on the registered label and the United States Environmental Protection Agency registration number, if applicable, of the pesticide which was applied.

(e) The direction from which the wind is blowing and estimated velocity of the wind in miles per hour (mph) and the temperature in degrees Fahrenheit at the time the pesticide was applied: *Provided*, That this subsection (e) shall not apply to applications of baits in bait stations and pesticide applications within structures.

(f) The total amount of pesticide applied such as pounds, gallons, ounces, etc.

(g) The amount of pesticide applied per acre or one thousand square feet or other appropriate measure.

(i) For PCO classification or residential ornamental applications, the amount shall be recorded to the nearest ounce of product or to the nearest gallon of liquid spray per site.

(ii) Fumigation records shall include the pounds of gas released per one thousand cubic feet of space, the temperature, and the duration of the exposure period.

(h) The concentration of pesticide that was applied. Liquid applications may be recorded as amount of product per one hundred gallons of liquid spray or other appropriate measure.

(i) The pests to be controlled (for PCO classification only).

(j) Specific crop or site to which pesticide was applied.

(k) Apparatus license plate number.

(l) The licensed applicator's name, certified pesticide applicator license number, address, telephone number, and the name and license number(s) if applicable of the individual or individuals making the application.

(m) The number of acres or other appropriate measure to which the pesticide was applied.

(2) Application records shall be completed and available to the department the same day the pesticides were applied.

(3) Application records shall be kept for a period of seven years from the date of the application of the pesticide to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee.

(4) Upon written request, the applicator shall provide the customer with a record of each application of pesticides to

his/her land, for the current season, which shall contain the information listed in WAC 16-228-1330(1).

(5) Except as stated in subsection (6) of this section, the information required in subsection (1) of this section shall be kept on the appropriate page of the pesticide record form (figures 1-8): *Provided*, That computerized records may be maintained as long as the records can be produced in the form and format prescribed by the department.

(6) The department may allow by written permit the information required in subsection (1) of this section to be kept in a different form and format than that described in figures 1-8: *Provided*, That the following criteria are met:

(a) The pesticide application record keeping system is computerized;

(b) The pesticide application record keeping system was in place and operational prior to July 23, 1989;

(c) The pesticide application record keeping system contains all the information required by subsection (1) of this section, and can be produced in a form and format acceptable to the department.

(7) All apparatus shall be kept in good repair and only that apparatus capable of performing all functions necessary to ensure proper and thorough application of pesticides shall be used. Apparatus shall be cleaned so that no residue remains which may cause injury to land, including humans, desirable plants and animals, from subsequent applications.

(8) On demand of the director, the applicator shall make immediately available for inspection the pesticides being applied and the apparatus used for the application: *Provided*, That this inspection is made at the site of application or where the apparatus is located.

(9) The applicator shall make available necessary safety equipment in proper working order and advise employees on its use to meet the safety requirements of the pesticide label.

(10) Maintain a uniform mixture at all times in operating apparatus when applying pesticides.

(11) All containers used for prepared mixtures, other than those in an apparatus, shall have a label identifying the contents as a pesticide, the active ingredient, and appropriate cautions.

EXPEDITED ADOPTION

State of Washington  
Department of Agriculture  
Olympic Washington 99504

**PESTICIDE APPLICATION RECORD (Version 1)**

NOTE: This form must be completed same day as the application and it must be retained for 7 years (Rev. 12/21)

1. Date of Application - Year: ..... Month: ..... Day: ..... Time: .....
2. Name of Person for whom the pesticide was applied: .....  
Firm Name (if applicable): .....  
Street Address: ..... City: ..... State: ..... Zip: .....
3. Licensed Applicator's Name (if different from #2 above): ..... License No. ....  
Firm Name (if applicable): ..... Tel. No. ....  
Street Address: ..... City: ..... State: ..... Zip: .....
4. Name of person(s) who applied the pesticide (if different from #3 above): .....  
License No(s), if applicable: .....
5. Application Crop or Site: .....
6. Total Area Treated (acre, sq. ft., etc.): .....
7. Was this application made as a result of a WSDA Permit?  No  Yes (if yes, give Permit No.) # .....
8. Pesticide information (please list all information for each pesticide in the tank mix):

a) Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied
			/	
			/	
			/	
			/	

9. Address or exact location of application. NOTE: if the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Wind direction and estimated velocity during the application: .....
11. Temperature during the application: .....
12. Apparatus license plate number (if applicable): .....
13.  Air  Ground  Chemigation
14. Miscellaneous information:

WSP 6226 (Rev. 4/08)

EXPEDITED ADOPTION

Location of Application (if the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township: .....

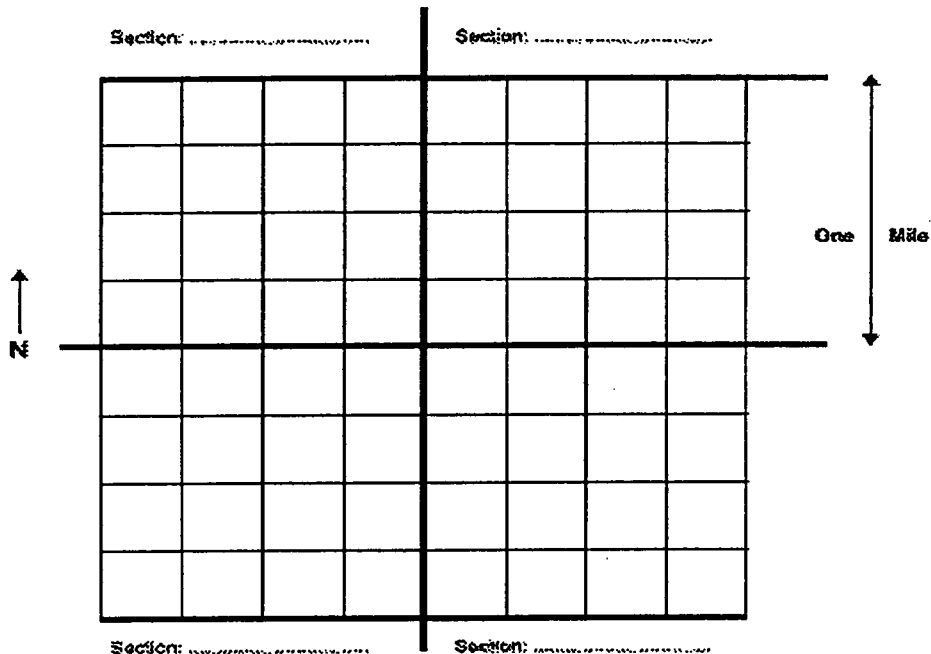
Range: E OR W (please indicate) .....

Section(s): .....

County: .....

**PLEASE NOTE:**

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



Miscellaneous Information:

MR. JOHN DOE, 123 E. 4th St.

EXPEDITED ADOPTION

State of Washington  
Department of Agriculture  
Pesticide Registration Section

**PESTICIDE APPLICATION RECORD (Version 2)**

NOTE: Application information must be completed same day as the application and must be retained for seven years (Ret. RCW 17.21)

1. Name & Address of Person for Whom Pesticide was Applied:			2. Applicator Name and Address (if different from 1):					
3. Address or exact location of application (NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form)			4. Date: Day: _____					
5. Date and Time of Application	6. Crop or Site Treated	7. Acres Treated (or other measure)	8. PROPERTY NAME:	9. EPA Registration Number	10. Amount of Product Applied (Rate per acre or other measure)	10. Total Product Applied	11. Comments	12. Weather Conditions, Application License Plate No. and Name and License No. of person(s) who applied pesticide
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							

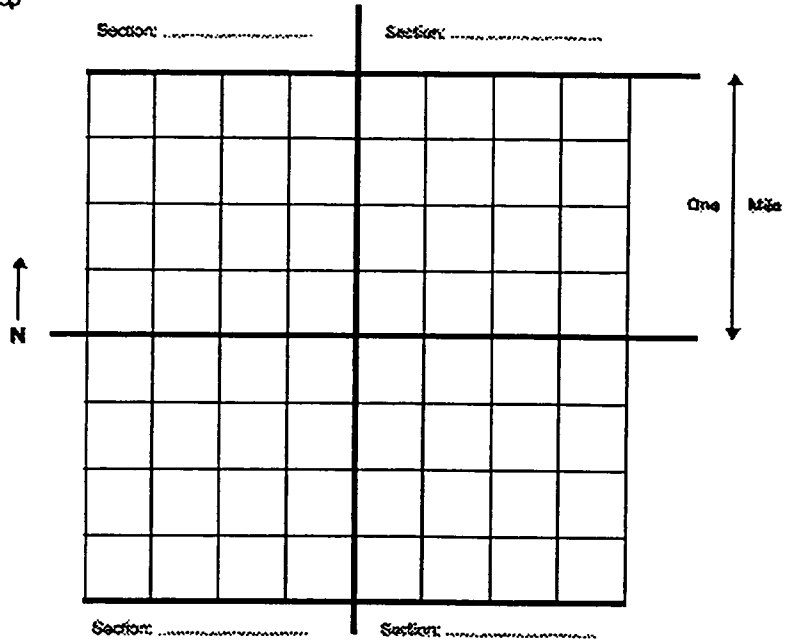
EXPEDITED ADOPTION

Location of Application (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township: .....  
Range: E, C, F, W (please indicate) .....  
Section(s): .....  
County: .....

**PLEASE NOTE:**

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



ASR 4726 Pg. 2

EXPEDITED ADOPTION

State of Washington  
Department of Agriculture  
Olympia, Washington 98504

**PESTICIDE APPLICATION RECORD (Version 3)**

NOTE: This form must be completed same day as the application and it must be retained for 7 years (WAC 17.23)

1. Date of Application - Year: \_\_\_\_\_ Month: \_\_\_\_\_ Day(s): \_\_\_\_\_
2. Name of Person for whom the pesticide was applied: \_\_\_\_\_  
 Firm Name (if applicable): \_\_\_\_\_  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
3. Licensed Applicator's Name (if different from #2 above): \_\_\_\_\_ License No. \_\_\_\_\_  
 Firm Name (if applicable): \_\_\_\_\_ Tel. No. \_\_\_\_\_  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_
4.  Air  Ground  Chemigation
5. Application Crop or Site: \_\_\_\_\_
6. Total Area Treated (acres, sq. ft., etc.): \_\_\_\_\_
7. Was this application made as a result of a WSDA Permit?  No  Yes (if yes, give Permit No.) # \_\_\_\_\_
8. Pesticide information (please list all information for each pesticide in the tank mix):

a) Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied
			/	
			/	
			/	
			/	
			/	

9. Address or exact location of application. NOTE: if the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Date	11. Name of person(s) making the application	12. License No.	13. Apparatus Lic. Plate No.	14. Time Start	14. Time Stop	15. Acres Completed	16. Wind Dir.	16. Wind Vel.	17. Temp

AG 11-4236 (Rev. 4-99)

EXPEDITED ADOPTION



10. Class	11. Name of parent(s) making the application	12. License No.	13. Applicant's Lic. Expiration No.	14. Time		16. Acres Completed	18. Wind		17. Temp
				Start	Stop		Dir.	Vel.	

Location of Application (if the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

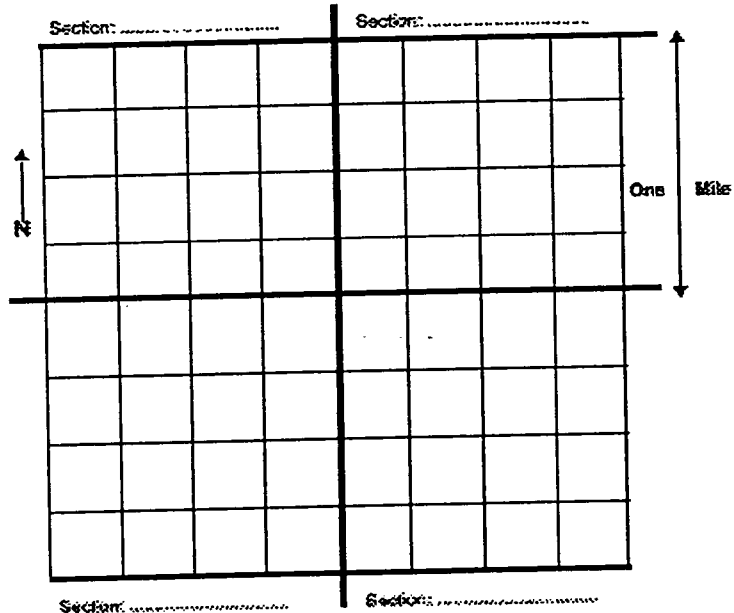
Township: .....

Range: E. Of W (please indicate) .....

Section(s): .....

County: .....

**PLEASE NOTE:**  
The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



Miscellaneous information:

AGS 4588 Pg. 2

EXPEDITED ADOPTION

State of Washington  
Department of Agriculture  
Olympia, Washington 98512

### PESTICIDE APPLICATION RECORD (Version 4)

NOTE: This form must be completed same day as the application and it must be retained for 7 years (Ref. RCW 17.21)

- A. Date of Application - Year: ..... Month: ..... Day: .....
- B. Firm Name: ..... Telephone No. ....  
Commercial Applicator's Name: ..... License No. ....  
Street Address: ..... City: ..... State: ..... Zip: .....
- C. Name of person(s) who applied the pesticide: .....  
License No(s): .....
- D. Pesticide information (please list all information for each pesticide in the tank mix):

<u>Product Name</u>	<u>EPA Reg. No.</u>	<u>Concentration</u> Amount - (Lbs., Gals., etc.) of brand per 100 gallons of tank mix. Amount per unit must be specified.

- E. Application crop or site: ..... F. Apparatus License Plate No. ....
- G. Record the following information for the specific conditions during each application:

	CUSTOMER		AMOUNT APPLIED (gals. of tank)	AREA TREATED (sq. ft., etc.)	TIME	TEMP °F	WIND	
	a) full name	b) location of application - street address					DIR	VEL
1. a)								
b)								
2. a)								
b)								
3. a)								
b)								
4. a)								
b)								
5. a)								
b)								
6. a)								
b)								
7. a)								
b)								
8. a)								
b)								
9. a)								
b)								

AG 14 6234 P 06 6/99

EXPEDITED ADOPTION

DAILY PESTICIDE APPLICATION RECORD (Version 5)

For Commercial Pest Control Operators Only

NOTE: This form must be completed same day as the application and retained for seven years (Ref. RCW 17.31)

1. FIRM NAME AND ADDRESS, TELEPHONE NUMBER, APPLICATOR NAME, LICENSE NO., PERSON MAKING APPLICATION, LICENSE NO., DATE, MANUFACTURER LICENSE NO.

Table with 5 columns: CUSTOMER, PESTICIDE REGISTRATION NUMBER, ACTIVE PERCENT OF PESTICIDE, APPLICATION SITE, PESTICIDE APPLICATIONS OR OTHER MATERIAL. Rows 1-7 with sub-rows a, b, c.

OPTIONAL: RELEASE START, RELEASE END

EXPEDITED ADOPTION

NEW SECTION

WAC 16-228-1330 Compliance with federal requirements. (1) All pilots and aircraft, used for or engaged in the commercial application of pesticides shall comply fully with the appropriate rules and regulations of the Federal Aviation Administration.

(2) All applicants for an aerial applicators license shall comply with FAA certification requirements. The department may require a current copy of the FAA operating certificate prior to issuance of a license. [Statutory Authority:

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

NEW SECTION

WAC 16-228-1370 Waste pesticide disposal. Under authority of chapter 15.58 RCW, the department may establish a waste pesticide disposal program for farmers, or other parties regulated under chapter 17.21 RCW or licensed under chapter 15.58 RCW.

(1) Upon review and determination that a pesticide is no longer useable, the department may declare a pesticide to be a "waste pesticide."

(2) The department may take possession of a waste pesticide with the owner's written consent for the purpose of disposal.

(3) For the purpose of waste pesticide disposal, the department may:

(a) Become identified as a hazardous waste generator;

(b) Enter into contracts or cooperative agreements to carry out portions of or all of the waste pesticide disposal program. The department may also enter into cooperative agreements to carry out portions of or all of the development of education programs relating to waste pesticide disposal and programs for dissemination of information concerning the department's disposal program.

(4) The department may accept pesticides whose active ingredients are not clearly identifiable for disposal. These pesticides may be analyzed by either the department or a private laboratory. If upon analysis the material is not a pesticide, not identified or not acceptable for disposal, it shall be returned to the owner and/or not accepted for disposal.

NEW SECTION

**WAC 16-228-1380 Regulation of application of vertebrate control pesticides.** Vertebrate control pesticides shall be used only under the following conditions:

(1) Vertebrate control pesticides shall be placed only in locations that are not readily accessible to nonpest animals, children, and unauthorized persons, and in a manner that shall preclude contamination of food, feed, drugs, and other consumer commodities. Exposure of rodenticides baits within buildings shall not be above floor levels.

(2) Baits shall be colored or otherwise formulated so that they will be identifiable from foods common to the establishment in which the bait is placed.

(3) When the use of bait boxes is necessary to ensure that baits are not readily accessible to nonpest animals, children, and unauthorized persons, the bait boxes shall be of sturdy construction and designed to accomplish that purpose, and shall be labeled clearly with letters on contrasting background showing the following information:

(a) Any information required by the EPA or Washington state registered label for the bait or the concentrate from which it was formulated.

(b) The name of the active ingredient(s).

(c) The name of the firm and/or applicator, address, and the telephone number.

(4) Containers used for exposing vertebrate control baits to pests shall be composed of tough, nonabsorbent, corrosion resistant materials and designed so they cannot be readily overturned or carried off by pest animals. Those containers that are used for exposing vertebrate control pesticides outside of bait boxes shall bear a legible warning label with wording not less restrictive than requirements on bait boxes being used as per WAC 16-228-1380(3), (except for the size of lettering). Food containers, such as "meat boats" and "souffle cups" are unacceptable. Containers used for liquid bait exposure shall be water and/or liquid impervious.

(5) All vertebrate control pesticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles.

(6) All containers used for storing or transporting vertebrate control pesticides shall bear an EPA or department registered label.

(7) Servicemen's kits which contain vertebrate control pesticides shall be handled with extra caution and shall not be left where children or other unauthorized persons or nontarget animals might remove contents.

(8) Upon completion of a baiting operation, all bait boxes, containers, and/or throw bags, if they may become readily accessible to the public, shall be recovered for disposal in an approved manner.

(9) Wherever poisoned carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they shall be recovered and disposed of by burning, burying not less than three feet below the soil surface, or placed in proper waste containers and delivered to an approved disposal site.

(10) Thallium-containing compounds shall not be used for vertebrate control.

NEW SECTION

**WAC 16-228-1385 Special restrictions on the use of Compounds 1080, 1081 and phosphorus paste.** Compounds 1080 and 1081, and phosphorus paste shall be restricted for use as follows:

(1) No person shall possess or use these pesticides except federal, state, county, or municipal officers or their employees for use in their official duties in pest control; research or chemical laboratories in their respective fields; pest control applicators and operators licensed by the state; and wholesalers or jobbers who distribute, sell, or export these pesticides to the aforementioned persons.

(2) No person shall use these pesticides in occupied structures such as private homes, apartment houses, other human dwellings or food service establishments. Those persons authorized in subsection (1) above shall use these pesticides only in buildings such as grain elevators, seed houses, or warehouses. The portions of these buildings being baited must be under control of the licensee. A controlled building is one that is locked or attended and that is under at least once-a-day surveillance by the licensee, unless authorized as per WAC 16-228-1385.(7).

(3) Compounds 1080 and 1081 and phosphorous paste shall be used only by authorized persons who have read and will comply with the "Instructions For Using Sodium Fluoroacetate (Compound 1080)," by the National Research Council and all other labeling of the registrant, and are familiar with hazards of the above compounds.

(4) Compounds 1080 and 1081 and phosphorous paste may be used in warehouses, grain elevators, seed houses and industrial buildings only when warning signs are used which are not less than eight by ten inches with the words "DANGER"—"FATAL POISON"—"RODENT BAIT" in red letters not less than one inch in height on a contrasting background and the skull and crossbones, in red, not smaller than the letters. These signs must be conspicuously posted at all entrances to the building and portions of the building under control of the licensee. Below is the suggested format:

DANGER  
FATAL POISON - RODENT BAIT  
IN THIS AREA  
(skull/crossbones) DO NOT TOUCH BAIT (skull/crossbones)  
OR DEAD ANIMALS  
Name, address, and phone number  
of applicator  
Name of the rodenticide

All authorized personnel in the building must be notified of the baiting; a diagram showing the number of bait stations and the location of each on the premises must be readily available on the property; and a copy of such diagram must be in the possession of the licensee who is performing the baiting operation.

(5) No person shall use Compounds 1080 and 1081, or phosphorus paste unless all unused baits are recovered and disposed of appropriately at the end of the baiting operation, and carcasses shall be recovered daily and disposed of as per

WAC 16-228-1380(9), unless a permit issued pursuant to WAC 16-228-1385(7) provides alternative requirements.

(6) When placed in burrows, baits should be put far enough into the burrow so that domestic animals cannot reach them readily. Baits applied to dumps should be placed beneath objects, in containers, or into holes so that it is inaccessible. Appropriate warning cards, as per WAC 16-228-1380 (4) shall be conspicuously displayed in adequate numbers whenever Compounds 1080 and 1081 or phosphorus baits are used on public property or on private property accessible to the public.

(7) Any authorized person desiring to use these pesticides in any areas other than licensee-controlled buildings, controlled dumps, sanitary sewers or in emergency situations where application sites are controlled and attended, such as waterfronts, shall apply for and obtain a permit from the director prior to applying the pesticide. These permits may be issued by the department if, after an on-site inspection, the department determines that:

(a) Good housekeeping and sanitary procedures are being followed to help control the rodent population;

(b) Rodent populations and conditions are such that an emergency situation exists and less toxic rodenticides and other control measures will not be adequate for the needed rodent control;

(c) The applicant designates a competent trained person to be named on the permit, who will accept responsibility for properly collecting and disposing of dead rodents; and

(d) A date is given for completion of the baiting operation (not more than thirty days duration) when the licensee will service the bait boxes (if any) and determine if a renewal of the permit is necessary.

(8) All compound 1080 solutions shall be dyed black. All 1080 baits shall be discolored.

(9) Compounds 1080 and 1081 shall be kept in a locked container within locked storage or locked service vehicle.

**Reviser's note:** The unnecessary underline 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.

### General Pesticide Regulations - Registration

#### NEW SECTION

##### **WAC 16-228-1400 Pesticide labeling requirements.**

(1) Pesticide labeling shall meet the standards or criteria of the Federal Insecticide, Fungicide and Rodenticide Act.

(2) Conditions set forth as part of an exemption from registration under provisions of section 18 of FIFRA shall be considered labeling for purposes of enforcement.

#### NEW SECTION

##### **WAC 16-228-1410 Home and garden products—**

**Definition** For purposes of this section, "home and garden use only" means any pesticide determined by the department to be packaged and labeled solely for use by the general public in and around a residence. In making this determination, the department shall consider, but not be limited to, the following criteria:

- (a) Packaging;
- (b) Package size;
- (c) Label instructions;
- (d) Application method;
- (e) Equipment to be used;
- (f) Rates of application.

#### NEW SECTION

**WAC 16-228-1420 Complete pesticide formula.** The complete pesticide formula shall include a listing of each active and inert ingredient and the percentage of each ingredient. This information will be kept confidential and is exempt from disclosure as a public record as provided by RCW 15.58.065. Information required by this section may be submitted on company letterhead marked "confidential" in red ink on each sheet or each "EPA confidential statement of formula" information sheet.

#### NEW SECTION

**WAC 16-228-1430 Adequate containers.** Containers, i.e., packages, cartons, bags, cans, barrels, bins, etc., in which pesticides are sold, offered for sale, or transported within the state of Washington shall be of sufficient strength and of such construction as to alleviate danger of spillage or breakage. Pesticides found to be packaged in unsafe containers shall be placed under "stop sale" order. Containers shall meet the minimum federal specifications.

#### NEW SECTION

**WAC 16-228-1440 Artificial coloring.** (1) No highly toxic pesticide in powdered or granular form or highly toxic pesticide baits having a label recommendation for use in any building, ship, or similar enclosure shall be sold within the state of Washington unless it is distinctly colored or discolored in such a way that it does not resemble any food.

(2) A pesticide in liquid form with colors resembling a beverage or liquid food, which does not have a distinctive odor, shall have an odorous substance added that is distinctly different from any beverage or liquid food.

#### NEW SECTION

##### **WAC 16-228-1450 Pesticide-fertilizer registration**

**and labeling.** (1) Each pesticide-fertilizer mix containing different pesticide active ingredients and/or percentages must be registered with the director: *Provided*, That the fertilizer portion shall be considered an inert ingredient for the purpose of this order: *And provided further*, That such registrations may be to the nearest one-tenth of one percent by weight of all active ingredient/s, except for nitrification inhibitor-pesticide mixes as stated in (4) below.

(2) A specimen pesticide-fertilizer label shall be registered with the director before distribution or sale. These labels shall bear the following items:

(a) A pesticide ingredient statement identifying the active ingredient(s) and showing the percent by weight of each active ingredient;

(b) EPA registration number of each pesticide used to formulate the pesticide-fertilizer mix;

(c) Crop(s) on which the pesticide-fertilizer mix may be used and the amount of pesticide-fertilizer mix to be applied per acre;

(d) Timing of application (for instance, preplant) and the preharvest interval;

(e) Net weight of the shipment;

(f) Name and address of the registrant or manufacturer;

(g) Any other information required by the director.

(3) Labeling bearing all of the information specified in (2) above and a complete specimen label for each pesticide product used to formulate the pesticide-fertilizer mix shall accompany each pesticide-fertilizer mix shipment. All or portions of the information required in (2) above may occur on the invoice of a custom mix: *Provided*, That an appropriate specimen invoice has been registered by the director as pesticide labeling.

(4) Pesticide-fertilizer mixes containing nitrification inhibitors or agents intended for nitrogen stabilization only, and no other pesticide active ingredients, may be registered without specifying the percentage of active ingredient. The amount of active ingredient in the mix must be stated on the label that accompanies each shipment.

#### NEW SECTION

**WAC 16-228-1455 Pesticide-fertilizer mix restrictions.** No person shall distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix.

#### NEW SECTION

**WAC 16-228-1460 Experimental use permits.** (1) Pesticides shall not be distributed or used for experimental purposes unless a written permit has been obtained from the director. All distribution and use of pesticides for experimental purposes shall be subject to restrictions and conditions described in the experimental use permit. Applications for experimental use permits shall include the following (when applicable):

(a) Name of the active ingredient and/or product name and/or EPA registration number of the product to be used;

(b) Person responsible for carrying out provisions of the experimental permit and means of locating this person in case of emergency;

(c) Target pest(s);°

(d) Crop or site and location(s) to which the pesticide is to be applied;

(e) Disposition of any treated food or feed and of subsequent crops from treated sites;

(f) Rate of application of formulation or active ingredient and number of applications;

(g) Timing and duration of the proposed program;

(h) Area to which the pesticide is to be applied;

(i) Total amount of pesticide to be applied;

(j) Federal experimental use permit number and text;

(k) Labeling to accompany the pesticide in the field;

(l) Any other information required by the director.

(2) An experimental use permit shall not be issued for use of a pesticide on a food or feed unless a tolerance greater than residues anticipated from the treatment or exemption from the requirement of a tolerance has been obtained from the Environmental Protection Agency, provisions for destruction of the treated food or feed and any crop residue have been made, or adequate demonstration has been made to the department that no detectable pesticide residue from the experimental program will be present in food or feed. The director may require evidence to substantiate any of the above.

(3) Collective experimental use permits may be issued by the director for experimental programs conducted by recognized research institutions on land owned or controlled by the institution.

(4) The director may monitor the implementation of any experimental use permit. This may include collection of samples, inspection of premises, records and equipment, and any other related activities specified by the director. The conditions of any experimental use permit may require notification of a designated department office prior to application and/or presence of a departmental representative at the application. Experimental use permits shall be considered labeling for purposes of enforcement. Violations of these permits shall be considered use inconsistent with the label.

(5) Summaries of experimental results and environmental effects shall be retained by the holder of the permit for three years and shall be submitted to the department upon request of the director.

(6) Pesticides intended for experimental use must be contained in secure containers, the labeling of which must present such precautions as are known to be necessary to protect the health of persons who may come in contact with the pesticide and to prevent unreasonable adverse effects on the environment.

(7) The director may limit the amount of pesticide, acres or areas to be treated, licensing, or qualifications of persons exercising the permit, or any other condition of an experimental use permit. The director may deny, amend, suspend or revoke any experimental use permit if it is found to be in violation of applicable federal regulations, in violation of chapters 15.58 and 17.21 RCW or rules adopted thereunder, or if the director deems such action necessary to protect public health and the environment.

### **General Pesticide Regulations - Licensing**

#### NEW SECTION

**WAC 16-228-1500 License denied, revoked or suspended.** (1) The director may deny, suspend, or revoke any provision of a license, registration, permit or certification issued under chapters 17.21 and 15.58 RCW if he finds that the applicant or the holder of the license, permit, or certification has committed any of the following acts each of which is declared to be a violation:

(a) Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be utilized;

(b) Made a pesticide recommendation or gave advice or used a pesticide inconsistent with the labeling, the EPA or Washington state registration for that pesticide, an EPA or Washington state experimental use permit for that pesticide, an exemption from registration under provisions of section 18 of FIFRA, or in violation of the EPA or Washington state restrictions on the use of that pesticide;

(c) Applied known ineffective or improper pesticides or materials;

(d) Operated a faulty or unsafe apparatus;

(e) Operated in a faulty, careless or negligent manner;

(f) Refused or neglected to comply with the provisions of the applicable sections of chapters 15.58 and 17.21 RCW, the rules adopted thereunder, or of any lawful order of the director;

(g) Refused or neglected to keep and maintain records required by chapters 15.58, 17.21 RCW, and rules adopted thereunder, or to make reports when and as required;

(h) Made false or fraudulent records, invoices, reports, and/or recommendations;

(i) Caused the application of a pesticide without having a licensed or certified applicator or operator in direct supervision;

(j) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus as provided for in chapter 17.21 RCW or failed to locate the apparatus license plate on the apparatus in a manner required by the department;

(k) Failed to properly display, when required, a department issued certified commercial ground applicator vehicle sticker;

(l) Used, or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator;

(m) Used fraud or misrepresentation in making an application for a license, permit, or certification or renewal of a license, permit or certification;

(n) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit or certification;

(o) Aided or abetted a certified applicator, or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW, conspired with such a certified applicator or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW or allowed one's license, permit, or certification to be used by another person;

(p) Made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or department investigation;

(q) Impersonated any state, county, or city inspector or official;

(r) Is not qualified to perform as a pest control consultant or pesticide dealer manager or certified applicator in the classifications in which he/she is licensed to operate or has operated, regardless of whether or not he/she has previously passed an examination provided for in chapter 15.58 RCW;

(s) To have in his/her possession a department pesticide applicator, operator, dealer manager or pest control consult-

ant examination or to remove or cause to remove any said examination from the department without expressed consent from the department; or

(t) Made or failed to make an inspection, statement, or report in violation of WAC 16-228-2000 through 16-228-2040.

(2) A penalty fee assessed as a result of a late license or registration renewal does not prevent the department from taking additional regulatory action against the violator.

(3) No pesticide dealer or dealer manager license shall be denied, suspended, or revoked, simply because a pesticide purchased from that dealer was applied in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder, unless the department finds the dealer or dealer manager in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder.

#### NEW SECTION

**WAC 16-228-1520 Financial responsibility insurance certificate (FRIC).** (1) A commercial pesticide applicator's license shall not be issued until a properly executed financial responsibility insurance certificate is filed with the department which shall certify: (Forms to be supplied by the department).

(a) Name of insured (identical to name on application form)

(b) Address of insured

(c) Policy number

(d) Plane number(s) (if applicable)

(e) Effective period

(f) Amount of insurance. Minimum requirements are:

(i) Public liability (personal injury) fifty thousand dollars; and property damage fifty thousand dollars; or

(ii) Alternately providing both public liability (personal injury), and property damage liability coverage within the same limit, providing such policy is issued in an amount of not less than one hundred thousand dollars.

(iii) Amount of deductible (if applicable): Maximum deductible, five thousand for all applicators.

(g) List of any pesticides or group of pesticides not covered by the policy.

(h) Acknowledgement of provisions for ten days' prior written notice of cancellation or reduction of the insurance coverage.

(2) The department may waive the requirements of this section, wholly or in part, if a properly executed surety bond in a form prescribed by the director is offered as evidence of financial responsibility, as provided for in RCW 17.21.160 and 17.21.170.

#### NEW SECTION

**WAC 16-228-1530 Pesticide licenses—Renewal dates—Penalties.** (1) The following pesticide licenses shall expire on the December 31st following their issuance:

(a) Commercial pesticide applicator licenses issued under the authority of RCW 17.21.070;

(b) Commercial pesticide operator licenses issued under the authority of RCW 17.21.110;

(c) Private applicator licenses issued under the authority of RCW 17.21.126;

(d) Public operator licenses issued under the authority of RCW 17.21.220.

(e) Private-commercial applicator licenses issued under the authority of RCW 17.21.122;

(f) Pesticide dealer-manager licenses issued under the authority of RCW 15.58.200;

(g) Demonstration and research licenses issued under the authority of RCW 17.21.129.

(2) The following pesticide licenses shall expire on the final day of February of each year:

(a) Pest control consultant licenses issued under the authority of RCW 15.58.210;

(b) Public pest control consultant licenses issued under the authority of RCW 15.58.220.

(3) Pesticide renewal applications for licenses issued under the authority of chapter 17.21 RCW shall be filed on or before January 1st of the appropriate year.

(4) If an application for renewal of any pesticide license issued under the authority of chapter 17.21 RCW is not filed on or prior to January 1st following the expiration date of the license, a penalty shall be assessed as provided in RCW 17.21.140.

(5) If an application for renewal of a pesticide dealer license issued under the authority of chapter 15.58 RCW is not filed on or before the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license is issued.

(6) If an application for renewal of any license issued under the authority of chapter 15.58 RCW, other than the pesticide dealer license, is not filed on or before the expiration date of the license, penalty equivalent to the license fee shall be assessed and added to the original fee, and shall be paid by the applicant before the renewal license is issued.

(7) Nothing herein shall be construed to limit the department's ability, as otherwise provided by law, to deny a license, to condition license renewal, or to enforce violations of applicable laws, subsequent to the expiration of a license.

(8) An applicant shall complete the application form for a pesticide license and pay the required license application fee prior to being given pesticide examinations, unless prior arrangements have been made.

#### NEW SECTION

**WAC 16-228-1540 Examination requirements.** (1) An examination fee of ten dollars shall be paid prior to administration of any pesticide license examination at other than a regularly scheduled examination session. Scheduled exam sessions occur every Tuesday at the Olympia and Yakima pesticide management division offices. The department reserves the right to restrict the number of applicants examining at any given time.

(2) Any individual who fails any pesticide licensing examination twice shall be required to wait at least fourteen days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

#### NEW SECTION

**WAC 16-228-1550 Apparatus display signs.** (1) A certified applicator making a landscape application shall display the name and telephone number of the applicator or applicator's employer on any power equipment.

(2) A certified applicator making a right of way application shall display the name and telephone number of the applicator or the applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION."

(3) Apparatus display signs shall be attached to and prominently displayed on the application apparatus and shall be clearly visible.

(4) Lettering of the apparatus display signs shall be, at a minimum, two inches in height and shall be printed in color contrasting to the background.

#### NEW SECTION

**WAC 16-228-1555 Requirements on placement of commercial applicator apparatus license plates and windshield identification.** (1) Apparatus license plates, as provided for in chapter 17.21 RCW, shall be attached to and prominently displayed on the apparatus for which they have been issued: *Provided*, That an apparatus license plate may be affixed to a vehicle which contains the particular apparatus. Attached plates shall be clearly visible and in a location easily accessible for inspection by the department.

(2) Each vehicle involved in the operations of a certified commercial ground application business, which does not prominently display a department issued apparatus license plate on its exterior or on the specific apparatus when that apparatus is exteriorly visible, shall be required to have a department issued sticker affixed to the lower left side of the windshield.

#### NEW SECTION

**WAC 16-228-1570 Permits.** (1) Private applicator certification, demonstration and research applicator certification, user permits and private-commercial applicator licenses shall be considered as certified applicator permits as provided for in RCW 17.21.030 and 15.58.040 (2)(h).

(2) User permits may be issued by the director as temporary applicator certification in emergency situations. User permits will be issued in a form prescribed by the director, which shall include the following:

- (a) Permit number
- (b) Date of issuance
- (c) Expiration date, which shall be not longer than one year from the date of issuance
- (d) Name and address of certified applicator
- (e) Crop or site and area to which the pesticide will be applied
- (f) Amount of pesticide obtained
- (g) Any other information prescribed by the director.

(3) Pesticide dealers shall keep user permits for a period of one year from the date of issuance, and the director shall have access to these records upon request.



NEW SECTION

**WAC 16-228-1580 Change of exemptions.** The licensing exemption for jurisdictional health officers as provided for in RCW 17.21.220; and research personnel provided for in RCW 17.21.203 shall not apply when applying EPA restricted use pesticides or state restricted use pesticides which are restricted to use by certified applicators only: *Provided*, That research personnel shall be required to obtain a demonstration and research applicator certification.

NEW SECTION

**WAC 16-228-1585 Ground maintenance on an occasional basis—Exempt from licensing requirements.** Grounds maintenance persons are exempt from licensing requirements as a commercial pesticide applicator, as provided under chapter 17.21 RCW, only if they perform ground maintenance on an occasional basis not amounting to a regular occupation. Exempted persons shall only perform pesticide applications to the grounds of residential dwellings and shall only use home and garden products.

NEW SECTION

**WAC 16-228-1590 Pesticide dealer and dealer manager licenses.** (1) When more than one pesticide dealer is engaged in the business from the same outlet or location, each pesticide dealer shall obtain a license for said outlet or location.

(2) A licensed pesticide dealer manager shall be available to the staff, customers, and department representatives at all times that an outlet or location distributes pesticides. A dealer manager may be the designated dealer manager of more than one outlet or location only if the dealer manager can be physically present at both outlets or locations during all times of pesticide distribution and handling

**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.

**General Pesticide Regulations -  
Wood Destroying Organisms**

NEW SECTION

**WAC 16-228-2000 Inspection and reporting criteria for complete wood destroying organism inspections.** All persons licensed to conduct wood destroying organism inspections shall comply with the following criteria when performing complete wood destroying organism inspections.

(1) The inspector shall make a thorough inspection of accessible areas of the subject structure which are not excluded. The inspection shall be conducted by making a careful visual examination, and/or probing with inspection instruments.

(2) Substructural crawl areas shall be inspected when accessible.

(3) Upon completion of an inspection, a wood destroying organism report shall be issued to the person paying for

and/or otherwise requesting the inspection. Such report shall include the following: *Provided*, That all diagrammatic representations may be omitted from the report provided to the person paying for or otherwise requesting the inspection, but shall be maintained on file pursuant to subsection (3)(k) of this section.

(a) Date of inspection;

(b) Name of seller/ owner and purchaser (when applicable);

(c) Street address of structure inspected. When there is more than one structure that may be used as a dwelling at a given street address it shall be clearly indicated which structure was inspected;

(d) Name of structural inspector and department pesticide license number;

(e) Substructural crawl areas which are not accessible due to inadequate clearance, or foundation walls/partitions, etc., which block access, shall be clearly indicated on the complete wood destroying organism inspection report including any diagram which is a part of that report. It shall be stated on the report that such areas may be vulnerable to attack by wood destroying organisms, and should be made accessible for inspection if feasible. In the event that it is neither feasible or necessary to make access into such areas, a statement indicating the reason(s) shall be included on the report;

(f) With the exception of areas within the living quarters of an occupied structure, all areas which are excluded from the inspection shall be clearly indicated on any complete wood destroying organism inspection report;

(g) Evidence of infestation of wood destroying organisms which shall include:

(i) Common name of the wood destroying organism(s). Termites shall be described as either dampwoods or subterranean. Wood boring beetles shall be described by the appropriate family name, i.e., anobiidae (deathwatch beetles). Buprestid and Cerambycid beetles shall not be described as "powder post beetles";

(ii) Statement describing specific evidence of infestation(s) observed;

(iii) If evidence of infestation(s) is observed only in wood which is not normally considered a part of the structure i.e., form boards, cellulose debris, roots, stumps, landscaping wood/ lumber, etc., the report shall so state;

(iv) Diagrammatic representation of areas infested sufficient to identify the approximate location of areas infested;

(h) Optional method of control. When infestations of dampwood termites or rot fungus are localized in a structure, or observed only in wood which is not normally considered a part of the structure, such as form boards, cellulose debris, roots, stumps, landscaping wood/lumber, it shall be stated in the report that such infestations may be eliminated by removal of all infested wood and correction of any contributing conducive conditions;

(i) Damage caused by wood destroying organisms:

(i) A statement describing any damage which was observed in accessible areas of the structure which were not excluded from the inspection.

(ii) A diagrammatic representation indicating such areas of damage;

(j) Conducive conditions for an infestation of wood destroying organisms. Written statements and diagrammatic representation of the following shall be provided:

(i) Inadequate clearance: Where there is less than eighteen inches clear space between the bottom of floor joists and the unimproved ground area in any crawl space or portion thereof.

(ii) Earth-wood contact: Where wood of the structure is in direct contact with the soil. This does not include wood that has been treated for direct soil contact.

(iii) Cellulose debris: Where wood by-product material can be raked or is larger than can be raked, or where any stumps, roots, form boards, etc., are on the ground of a crawl space.

(iv) Excess moisture: Where there is standing water or evidence of seasonal standing water in crawl space or basement. Plumbing and other moisture leaks.

(v) Inadequate ventilation: Where there is detectable excessive moisture content in the wood of a substructure, and/or an active infestation of wood destroying organisms which can be attributed to the lack of sufficient ventilation in the substructure;

(k) A record of the complete wood destroying organism inspection report shall be maintained on file by the structural inspector or employer for a period of seven years. Such record shall be made available to the department upon request.

**NEW SECTION**

**WAC 16-228-2020 Inspection and report prerequisite to wood destroying organism treatment.** All persons licensed to conduct wood destroying organism inspections shall conduct either a limited or complete wood destroying organism inspection prior to treatment.

(1) A limited or complete wood destroying organism inspection shall be conducted and a report issued to the person paying for and/or otherwise requesting the inspection prior to the contracting of any treatment for wood destroying organisms, except when the treatment is for preventative purposes only. In situations when treatment is for preventative purposes, the person requesting treatment shall provide the following preauthorization:

I have requested that . . . . . perform a preventative treatment for control of . . . . . on the structure located at . . . . . I acknowledge that this preventative treatment may be performed without inspection.

(2) A limited or complete wood destroying organism inspection report or treatment preauthorization form shall accompany or be included within any proposal/estimate for treatment of wood destroying organisms.

(3) When no evidence of infestation is observed, and any proposed treatment is for preventative purposes only, a limited or complete wood destroying organism inspection report shall include:

(a) A statement describing that no evidence of infestation was observed, and the treatment proposed is for preventative purposes only. Such statement shall stand out by having

larger print than the main body of the report, or by being highlighted or underlined.

(b) The initials of the person, or representative thereof, that requested the inspection shall be inscribed directly under or adjacent to the statement as described in (a) of this subsection. Such initials shall be obtained prior to the commencement of any preventative treatment.

(4) Treatment performed for wood destroying organisms under an existing warranty shall not require the preparation of a limited or complete wood destroying organism inspection report.

**NEW SECTION**

**WAC 16-228-2030 Limited wood destroying organism inspections.** A limited wood destroying organism inspection shall not be construed as a complete wood destroying organism inspection. In no case shall a limited wood destroying organism inspection report be submitted in lieu of a complete wood destroying organism inspection report to a lending institution, title company, real estate office or agent, or other person, when a complete wood destroying organism inspection has been requested for the purpose of verifying that a structure is free of visible evidence of wood destroying organisms, their damage, or conducive conditions.

**NEW SECTION**

**WAC 16-228-2040 Reporting criteria for limited wood destroying organism inspections.** All persons licensed to conduct wood destroying organism inspections shall comply with the following criteria when performing a limited wood destroying organism inspection.

(1) A limited wood destroying organism inspection report shall include the following: *Provided*, That all diagrammatic representations may be omitted from the report provided to the person paying for or otherwise requesting the inspection, but shall be maintained on file pursuant to subsection (2) of this section:

- (a) Date of inspection;
- (b) Name of person or agency requesting the inspection, proposal, or estimate;
- (c) Address of structure inspected;
- (d) Name of structural inspector and WSDA license number;
- (e) A statement describing specific evidence of infestation(s) observed;
- (f) If evidence of infestation(s) is observed only in wood which is not normally considered a part of the structure, i.e., form boards, cellulose debris, roots, stumps, landscaping wood/ lumber, etc., the report shall so state;
- (g) Common name of wood destroying organisms. Termites shall be described as either dampwoods or subterranean. Wood boring beetles shall be described by the appropriate family name, i.e., anobiidae (deathwatch beetles). Buprestid and Cerambycid beetles shall not be described as "powder post beetles";
- (h) A diagrammatic representation of area of infestation sufficient to identify the appropriate location of areas

EXPEDITED ADOPTION

infested: *Provided*, That a diagram shall not be necessary when the homeowner/caretaker presents an insect and/or wood sample to the inspector, and this is the only evidence of infestation(s) observed;

(i) Optional method of control: When infestations of dampwood termites or rot fungus are localized in a structure, or observed only in wood which is not normally considered a part of the structure, such as form boards, cellulose debris, roots, stumps, landscaping wood/lumber, it shall be stated in the report that such infestations may be eliminated by removal of all infested wood and correction of any contributing conducive conditions.

(2) A record of the limited wood destroying organism inspection report shall be maintained on file by the structural inspector or employer for a period of one year. Such records shall be made available to the department upon request.

### Chapter 16-202 WAC

## APPLICATION OF PESTICIDES AND PLANT NUTRIENTS THROUGH IRRIGATION SYSTEMS

### NEW SECTION

**WAC 16-202-1000 Chemigation.** After October 31, 1988, the following shall apply:

(1) No pesticide may be applied through an irrigation system, unless its registered label contains statement(s) specifically permitting this means of application: *Provided*, That applications of spray adjuvants are exempt from requirements of this section.

(2) Any person calibrating, loading, starting up, monitoring during application, or shutting down a chemigation system shall be knowledgeable about the system, and shall be under the direct supervision of a certified applicator.

(3) Any irrigation system used for chemigation shall contain the following functional equipment:

(a) A backflow prevention device or system in the water supply line, upstream from the point of pesticide introduction. Discharge of water into a reservoir tank prior to pesticide injection is acceptable: *Provided*, That there is an air gap between the outlet end of the fill pipe and the top (or overflow rim) of the reservoir tank of at least twice the inside diameter of the fill pipe;

(b) An automatic, quick-closing check valve in the pesticide injection pipeline to prevent the flow of liquid back toward the injection pump;

(c) A normally closed, solenoid-operated valve located on the intake side of the injection pump, connected with the system interlock to prevent fluid from being withdrawn from the supply tank during shutdown;

(d) An interlocking control to automatically shut off the injection pump when the water pump stops or when water pressure decreases to a point where pesticide distribution is affected; and

(e) A metering pump fitted into the system interlock specified in (d) of this subsection.

(4) The department may issue permits exempting specific irrigation systems or locations from requirements of subsection (3) of this section: *Provided*, That alternative

technology is substituted which will adequately fulfill the function of each waived requirement. In evaluating a permit request, the department may consult qualified engineers and Washington State University personnel.

### NEW SECTION

**WAC 16-202-2000 Fertigation** The following shall apply to fertigation: (1) Any irrigation system used for fertigation shall contain the following functional equipment:

(a) A backflow prevention device or system in the water supply line, upstream from the point of fertilizer introduction. Discharge of water into a reservoir tank prior to fertilizer injection is acceptable: *PROVIDED*, that there is an air gap between the outlet end of the fill pipe and the top (or overflow rim) of the reservoir tank of at least twice the diameter of the fill pipe;

(b) An automatic, quick-closing check valve in the fertilizer injection pipeline to prevent the flow of the liquid back toward the injection pump;

(c) A normally closed, solenoid-operated valve located on the intake side of the injection pump, connected with the system interlock to prevent fluid from being withdrawn from the supply during shutdown;

(d) An interlocking control to automatically shut off the injection pump when the water pump stops or when water pressure decreases to a point where fertilizer distribution is affected;

(e) A metering pump fitted into the system interlock specified in (d) of this subsection.

(2) The department may issue permits exempting specific irrigation systems or locations from requirements of subsection (1) of this section: *Provided*, That alternative technology is substituted which will adequately fulfill the function of each waived requirement. In evaluating a permit request, the department may consult qualified engineers and Washington State University personnel.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 16-10-010, Definitions
- WAC 16-10-020, Rights of complainants
- WAC 16-10-030, Rights of persons aggrieved
- WAC 16-200-742, Fertigation
- WAC 16-228-010, Definitions
- WAC 16-228-020, Pesticide Licenses-Renewal dates-Penalties
- WAC 16-228-115, Pesticide labeling requirements
- WAC 16-228-116, Complete pesticide formula
- WAC 16-228-117, Home and garden products—Definition—Registration fee
- WAC 16-228-120, Artificial coloring
- WAC 16-228-125, Experimental use permits
- WAC 16-228-130, Pesticide-fertilizer registration and labeling
- WAC 16-228-140, Pesticide-fertilizer mix restrictions
- WAC 16-228-143, Pirt surcharge

EXPEDITED ADOPTION

WAC 16-228-145, Adequate containers

WAC 16-228-155, Pesticides—Not for distribution to home and garden

WAC 16-228-157, Waste pesticide disposal

WAC 16-228-160, Restriction on distribution, transportation, storage and disposal

WAC 16-228-161, Distribution records

WAC 16-228-162, Phenoxy herbicide restrictions

WAC 16-228-164, State restricted use pesticides for use by certified applicators only

WAC 16-228-166, Aquatic pesticides

WAC 16-228-168, Change of exemptions

WAC 16-228-170, Pesticide dealer and dealer manager licenses

WAC 16-228-172, Permits

WAC 16-228-180, License denied, revoked or suspended

WAC 16-228-185, Restrictions applying to any person holding, handling, using, or disposing of pesticides and their containers

WAC 16-228-190, Applicator requirements

WAC 16-228-195, Compliance with federal requirements

WAC 16-228-210, Financial responsibility insurance certificate (FRIC)

WAC 16-228-213, Requirements on placement of commercial applicator apparatus license plates and windshield identification

WAC 16-228-214, Apparatus display signs

WAC 16-228-215, Application fee and FAA certificate

WAC 16-228-220, Examination requirements

WAC 16-228-223, Ground maintenance on an occasional basis—Exempt from licensing requirements

WAC 16-228-225, Regulation of application of vertebrate control pesticides

WAC 16-228-227, Tributyltin

WAC 16-228-230, Special restrictions on the use of Compounds 1080, 1081 and phosphorus paste

WAC 16-228-232, Chemigation

WAC 16-228-233, Investigative response time

WAC 16-228-400, Inspection and reporting criteria for complete wood destroying organism inspections

WAC 16-228-410, Inspection and report prerequisite to wood destroying organism treatment

WAC 16-228-420, Limited wood destroying organism inspections

WAC 16-228-430, Reporting criteria for limited wood destroying organism inspections

WAC 16-228-600, Use of pesticides on small seeded vegetable seed crops and seed alfalfa

WAC 16-228-650, Declaration of an agricultural emergency

WAC 16-228-655, Agricultural activities permitted under an agricultural emergency

WAC 16-228-660, Record keeping required for agricultural emergencies

WAC 16-228-905, Statement of purpose—Penalty assignment

WAC 16-228-910, Definitions—Penalty assignment

WAC 16-228-915, Calculation of penalty

WAC 16-228-920, Penalty Assignment Schedule-Table A

WAC 16-228-925, Penalty Assignment Schedule-Table B

WAC 16-228-930, Other dispositions of alleged violations

WAC 16-228-14501, Sale or possession of sodium fluoracetate, fluoracetamide, and phosphorus pastes

### WSR 99-17-114

#### EXPEDITED ADOPTION

#### DEPARTMENT OF ECOLOGY

[Order 99-21—Filed August 18, 1999, 11:29 a.m.]

Title of Rule: Low-level radioactive waste disposal.

Purpose: This amendment is being proposed to correct errors in grammar, punctuation, make agency address changes, and to clarify the language of the rule without changing its effect.

Statutory Authority for Adoption: Section 5, chapter 2, Laws of 1986.

Statute Being Implemented: Section 5, chapter 2, Laws of 1986.

Summary: This chapter implements section 4, chapter 2, Laws of 1986, which implements the Federal Low-Level Radioactive Waste Policy Amendments Act of 1985.

Reasons Supporting Proposal: This amendment is being proposed to correct errors in grammar, punctuation, make agency address changes, and to clarify the language of the rule without changing its effect.

Name of Agency Personnel Responsible for Drafting: Kathy Carpenter, Headquarters, (360) 407-6216, Implementation and Enforcement: Mike Wilson, Headquarters, (360) 407-7150.

Name of Proponent: [Department of Ecology], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment corrects typographical errors and updates addresses.

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 Jerry Thielen, Rules Coordinator, Department of Ecology, P.O. Box 47600,

Olympia, WA 98504-7600, AND RECEIVED BY October 18, 1999.

August 10, 1999  
Janice Jackson  
for Dan Silver  
Deputy Director

AMENDATORY SECTION (Amending Order 86-14, filed 7/7/86)

**WAC 173-325-020 Definitions.** (1) "Site" means the commercial low-level radioactive waste disposal site located near Richland, Washington.

(2) "Low-level radioactive waste" ~~((is defined in Public Law 99-240))~~ means radioactive material that:

(a) Is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in section 11e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(3)(2))); and

(b) The Nuclear Regulatory Commission, consistent with existing law and in accordance with paragraph (A), classifies as low-level radioactive waste.

(3) "Northwest compact region" means the states of Washington, Oregon, Idaho, Utah, Montana, Alaska, and Hawaii.

(4) "Southeast compact region" means the states of South Carolina, North Carolina, Virginia, Tennessee, Florida, Mississippi, Alabama, and Georgia.

(5) "Rocky Mountain compact region" means the states of Nevada, Colorado, Wyoming, and New Mexico.

(6) "Department" means the department of ecology.

(7) "P.L. 99-240" means the Federal Low-Level Radioactive Waste Policy Amendments Act of 1985, 99 Stat. 1842.

AMENDATORY SECTION (Amending Order 86-14, filed 7/7/86)

**WAC 173-325-030 Requirements for generators and brokers.** (1) Any generator or broker shipping waste ~~((which))~~ that originated outside the northwest compact region for disposal at the site shall pay to the state of Washington a surcharge as follows:

(a) From March 1, 1986 through December 31, 1987, \$10 per cubic foot of waste.

(b) From January 1, 1988 through December 31, 1989, \$20 per cubic foot of waste.

(c) From January 1, 1990, through December 31, 1992, \$40 per cubic foot of waste.

(2) In addition, the department may impose penalty surcharges up to the maximum extent allowed by P.L. 99-240.

(3) Surcharge payments must be mailed or electronically transferred no later than the day the respective waste shipment leaves the state of origin. In the lower left hand corner of the check, the valid site use permit number and shipment manifest number must be recorded. For electronic transfers, the valid site use permit number, and shipment manifest number, followed by the name of the facility (limited to 35 characters) must be transmitted at the time of the transfer. A copy of the face of the check, or of the receipt for wire transfer

must be attached to the shipping manifest when the shipment arrives at the disposal site.

(4) Surcharge payment may be made by a check payable to the state of Washington or by electronic transfer. Checks should be mailed to:

"LLW SURCHARGE"  
Cashier  
Fiscal Office  
Department of Ecology  
~~((St. Martin's Campus  
Mail Stop PV-11))~~  
P.O. Box 5128  
Olympia, WA ~~((98504))~~ 98509-5128

Electronic transfers ~~((telegraphic abbreviation RAINIER SEA if needed))~~ should be directed to:

~~((Robert S. O'Brien,))~~ State Treasurer  
Concentration Account  
~~((Rainier National Bank  
Olympia Branch  
Account #0041399269))~~  
Seafirst National Bank  
P.O. Box 24678  
Seattle, WA 98124  
Account #125000024

(5) Prenotification forms (#A-1 and #B-1) are no longer required.

(6) Brokers are required to attach to the shipping manifest a tabulated list of those generators whose waste is being shipped. The tabulated list must include the following information in the format specified:

Date of Shipment: . . . . .

Valid Site Use Permit #	Generator	State	Compact Region	Volume	Surcharge
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(7) Any generator or broker shipping waste ~~((which))~~ that was originally generated in the southeast compact region for disposal at the site must attach to the shipping manifest a copy of the letter granting certification to export waste from the southeast compact region.

(8) Any generator or broker shipping waste ~~((which))~~ that was originally generated in the Rocky Mountain compact region for disposal at the site must attach to the shipping manifest a copy of the letter granting approval to export waste from the Rocky Mountain compact region.

(9) Violation of any of these requirements may result in revocation of a generator's or broker's Washington State site use permit. Upon revocation of a site use permit, subsequent reissuance may be conditioned upon agreement to comply with appropriate conditions, such as a condition that surcharge payments be made by certified or cashier's check, and be received in advance, and a condition that the state of Washington be provided specific information at least three days ~~((prior to))~~ before the shipment.

EXPEDITED ADOPTION

**AMENDATORY SECTION** (Amending Order 86-14, filed 7/7/86)

**WAC 173-325-040 Requirements for site operator.**

(1) For each waste shipment for which a surcharge is due (as required by WAC 173-325-030 (1)-(2)), arriving at the facility, obtain a copy of the surcharge payment check or receipt of electronic wire transfer before receiving the waste shipment for disposal.

(2) For each waste shipment of a broker arriving at the facility, obtain the written information required by WAC 173-325-030(5) before receiving the waste shipment for disposal.

(3) For each waste shipment that contains waste ((which)) that was originally generated in the southeast compact region arriving at the facility, obtain a copy of the letter granting certification to export waste from the southeast compact region.

(4) For each waste shipment that contains waste ((which)) that was originally generated in the Rocky Mountain compact region arriving at the facility, obtain a copy of the letter granting approval to export waste from the Rocky Mountain compact region.

(5) Provide to the Washington state department of ecology information on each waste shipment received for disposal at the facility, as requested by the department.

**AMENDATORY SECTION** (Amending Order 86-14, filed 7/7/86)

**WAC 173-325-050 Effective dates.** This chapter shall take effect April 21, 1986, (1) except the requirements in WAC 173-325-030 (1)-(2), which took effect March 1, 1986, and (2) WAC 173-325-040(3), which takes effect immediately.

**WSR 99-17-116**  
**EXPEDITED ADOPTION**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 18, 1999, 11:39 a.m.]

Title of Rule: Chapter 296-150C WAC, Amendments.

Purpose: To amend for the purposes of eliminating vendor unit references from the chapter on commercial coaches.

Statutory Authority for Adoption: Chapter 43.22 RCW.

Statute Being Implemented: Chapter 43.22 RCW.

Summary: The department is adopting a new rule chapter specifically for vendor units and medical units as a result of statutory changes in the 1999 legislative session. Currently, vendor units are covered in the chapter on commercial coaches. To eliminate duplication and inaccuracies, the references and sections related to vendor units are being removed. These amendments will take effect following the effective date of the new chapter.

Reasons Supporting Proposal: The amendments are necessary to eliminate duplication and inaccuracy.

Name of Agency Personnel Responsible for Drafting: Dan Wolfenbarger, Tumwater, Washington, (360) 902-5225; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Housekeeping changes are proposed to chapter 296-150C WAC, to eliminate references pertaining to vendor units. Vendor units and medical units will be covered in a new chapter 296-150V WAC, as a result of statutory changes from the 1999 legislative session. The new vendor unit chapter will go into effect prior to the adoption of these amendments to chapter 296-150C WAC. The amendments are necessary to eliminate duplication and inaccuracies.

Proposal Changes the Following Existing Rules: References to vendor units are being deleted from the chapter on commercial coaches. The changes are housekeeping only and will have no effect on the requirements for commercial coaches. Vendor units will be covered in a separate new chapter (see WSR 99-13-200).

**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, Rules Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, fax (360) 902-4202, AND RECEIVED BY October 18, 1999.

August 13, 1999

Gary Moore

Director

**AMENDATORY SECTION** (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150C-0020 What definitions apply to this chapter?** "Alteration" is the replacement, addition, modification, or removal of any equipment or installation that affects the construction, fire and life safety, or the plumbing, mechanical, and electrical systems of a commercial coach.

The following are not considered alterations:

- Repairs with approved parts;
- Modification of a fuel-burning appliance according to the listing agency's specifications; or
- Adjustment and maintenance of equipment.

"Approved" is approved by the department of labor and industries.

"Building site" is a tract, parcel, or subdivision of land on which a commercial coach will be installed.

"Consumer" is a person or organization, excluding a manufacturer or dealer of commercial coaches, who buys or leases a commercial coach.

"Commercial coach" is a structure (referred to as a unit) that:

- Can be transported in one or more sections;
- Is used for temporary commercial purposes;
- Is built on a permanent chassis;
- Conforms to the construction standards of this chapter;
- May include plumbing, mechanical, electrical and other systems(†and
- Includes Type A and Type B vendor units.

*Type A vendor unit* is a commercial coach vehicle such as, but not limited to, a truck, van, or step van. The maximum dimensions of a Type A vendor unit are 8 feet wide by 24 feet long in the set-up mode.

*Type B vendor unit* is a commercial coach structure such as, but not limited to, a recreational vehicle as defined by the American National Standards Institute, Inc. that is being converted to a vendor unit. The maximum dimensions of a Type B vendor unit are 8 feet wide by 24 feet long in the set-up mode)).

Note: A commercial coach may not be used as a single-family dwelling. A commercial coach does not have to be placed on a permanent foundation.

~~((Note: (1) Nonvendor units must comply with chapter 296-150C WAC, WAC 296-150C-0010 through 296-150C-1570 and WAC 296-150C-3000.~~

~~(2) Vendor units may comply with chapter 296-150C WAC, WAC 296-150C-0010 through 296-150C-1570 or WAC 296-150C-0010 through 296-150C-0710 and WAC 296-150C-1580 through 296-150C-3000.))~~

"Damaged in transit" means damage that affects the integrity of a structural design or any of the systems.

"Dealer" is a person, company, or corporation whose business is leasing, selling, offering for lease or sale, buying, or trading commercial coaches.

"Department" is the department of labor and industries. The department may be referred to as "we" or "us" in this chapter. Note: You may contact us at: Department of Labor and Industries, Specialty Compliance, PO Box 44440, Olympia, WA 98504-4440.

"Design plan" is a plan for the construction or alteration of a commercial coach or conversion of a vehicle to a commercial coach including floor plans, elevation drawings, specifications, engineering data, or test results necessary for a complete evaluation of the design.

"Design option" is a design that a manufacturer may use as an option to its commercial coach design plan.

"Equipment" is all material, appliances, devices, fixtures, fittings, or accessories used in the manufacture, assembly, conversion to, or alteration of a commercial coach.

"Factory assembled structure (FAS) advisory board" is a board authorized to advise the director of the department regarding the issues and adoption of rules relating to commercial coaches. (See RCW 43.22.420.)

"Insignia" is a label that we attach to a commercial coach to verify that the structure meets the requirements of this chapter and the applicable codes.

"Install" is to erect, construct, assemble, or set a commercial coach in place.

"Labeled" is to bear the department's insignia.

"Listed" is a piece of equipment or apparatus that has been approved by a testing agency to the appropriate standard.

"Local enforcement agency" is an agency of city or county government with power to enforce local regulations governing the installation of a commercial coach.

"Master design plan" is a design plan that expires when a new state building code has been adopted.

"One-year design plan" is a design plan that expires one year after approval or when a new state building code has been adopted.

"System" is part of a commercial coach designed to serve a particular function. Examples include structural, plumbing, electrical, or mechanical systems.

~~((**"Vendor unit"** is a type of commercial coach (referred to as a unit) that:~~

- ~~• Is transported in only one section;~~
- ~~• Is designed for highway use;~~
- ~~• Is temporarily occupied for distribution of items (e.g., food);~~
- ~~• Is built on a permanent chassis;~~
- ~~• Includes at least one of the following systems: Plumbing, mechanical, or electrical;~~
- ~~• Is a converted structure, not a newly manufactured structure; and~~
- ~~• Is a Type A vendor unit or a Type B vendor unit.~~

~~Note: Newly manufactured units must comply with the commercial coach construction requirements of this chapter. Unoccupied vendor units are exempt from the requirements of this chapter. For example, these vehicles where food is sold and distributed by standing alongside it.))~~

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150C-0410** When does my design plan expire? *Commercial Coach - Master Design Plan:*

(1) Your commercial coach master design plan expires when there is a code change. You must submit new design plans for approval when there is a state building code cycle change. You may use your approved master design plans to order insignia as long as they comply with the applicable codes.

*Commercial Coach - One-Year Design Plan:*

(2) Your commercial coach one-year design plan expires either one year after approval or when there is a code change. You must submit new design plans for approval when there is a state building code cycle change. You may use your design plans to order insignia as long as they comply with the applicable codes.

(3) All National Electrical Code amendments may be incorporated by an addendum to your design plan.

Note: The State Building Code is on a three-year code cycle which coincides with the State Building Code Council amendment cycle. The National Electrical Code (NEC) cycle, however, does not coincide with the other code cycles.

~~((Commercial Coach Vendor Unit:~~

~~(4) Your vendor unit design plan expires after the unit is converted or altered. You can only use this design plan once.))~~

AMENDATORY SECTION (Amending WSR 98-14-078, filed 6/30/98, effective 7/31/98)

**WAC 296-150C-0500 When is an inspection required?** (1) Before we issue an insignia, each unit manufactured or converted must be inspected as many times as required to show compliance with this chapter.

Note: Each commercial coach must have a serial number so we can track inspections.

(2) Before we issue an insignia, each commercial coach must be inspected at the manufacturing location as many times as required. Inspections may include but are not limited to:

(a) A "cover" inspection during construction of the unit before the electrical, plumbing, mechanical, and structural systems are covered;

(b) Insulation and vapor barrier inspection, if required; and

(c) A final inspection after the commercial coach is complete.

(3) If we discover a violation during inspection, we will issue a notice of noncompliance. You can correct the violation during the inspection. If you cannot correct the violation during inspection, you must leave the item uncovered until we approve your correction.

(4) If a commercial coach is damaged in transit to the building site or during on-site installation, it must be inspected. This is considered an alteration inspection. (See WAC 296-150C-0240.)

(5) Approved design plans must be available in compliance with the applicable sections of the adopted state codes.

(6) Once your unit is inspected and approved we will attach the insignia.

~~((Commercial Coach Vendor Unit~~

~~(7) Before we issue an insignia, each commercial coach vendor unit is inspected as follows:~~

~~(a) Inspection(s) during conversion or alteration of a commercial coach vendor unit; and~~

~~(b) A final inspection after the commercial coach vendor unit is complete.))~~



**WSR 99-17-001**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed August 4, 1999, 2:14 p.m.]

Date of Adoption: June 8, 1999.

Purpose: Rules are no longer necessary because of changed circumstances. A survey of state certification records indicate that the commodities, covered by the rules listed below, are certified based on United States standards.

Citation of Existing Rules Affected by this Order: Repealing entire chapter 16-424 WAC, Onion standards, entire chapter 16-412 WAC, Standards for cantaloupes, entire chapter 16-451 WAC, Rhubarb, hot-house or cellar grown, entire chapter 16-460 WAC, Washington standards for tomatoes.

Statutory Authority for Adoption: Chapter 15017 [15.17] RCW, Standards of grades and packs.

Adopted under preproposal statement of inquiry filed as WSR 99-08-112 on April 7, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 21.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 21.

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 21.

Effective Date of Rule: Thirty-one days after filing.

July 30, 1999

Jim Jesernig

Director

**WSR 99-17-002**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed August 4, 1999, 2:17 p.m.]

Date of Adoption: June 8, 1999.

Purpose: Remove reference to the word "horticultural" in the title and replace with the words "fruit and vegetable" to comply with chapter 15.17 RCW; remove WAC 16-458-004 Promulgation; and add language to WAC 16-458-075, 16-458-080, and 16-458-085 to clarify language in these sections.

Citation of Existing Rules Affected by this Order: Amending chapter 16-458 WAC, Horticultural inspection district boundaries.

Statutory Authority for Adoption: Chapter 15.17 RCW, Standards of grades and packs.

Adopted under notice filed as WSR 99-08-113 on April 7, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 1.

Effective Date of Rule: Thirty-one days after filing.

July 30, 1999

Jim Jesernig

Director

**Chapter 16-458 WAC**  
**HORTICULTURE FRUIT AND**  
**VEGETABLE INSPECTION DISTRICT**  
**BOUNDARIES**

**Reviser's note:** The typographical error in the above caption 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 1471, filed 7/2/76)

**WAC 16-458-075 Fruit and vegetable district two.**  
Fruit and vegetable district two shall consist of Kittitas, Klickitat, Skamania, Yakima and that portion of Benton County lying west of a line running south from the Columbia River known as the center line of Range 27E, and north of Sellards Road from its junction with Range 27E on the east, thence west to the Yakima County line; this includes the Prosser, Kiona, and Benton City areas.

**AMENDATORY SECTION** (Amending WSR 87-24-009, filed 11/20/87, effective 1/1/88)

**WAC 16-458-080 Fruit and vegetable district three.**  
Fruit and vegetable district three shall consist of all counties located west of the Cascade Mountains, Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman counties, and that portion of Benton County lying south and east of the Sellards Road, from its junction with Yakima County on the west thence east to the center line of Range 27E, thence north to the Columbia River; this excludes the Benton City, Kiona and Prosser areas.

AMENDATORY SECTION (Amending Order 1471, filed 7/2/76)

**WAC 16-458-085 Fruit and vegetable district four.**  
Fruit and vegetable district four shall consist of Chelan, Douglas and Okanogan counties.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-458-004 Promulgation.

**WSR 99-17-003**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
 [Filed August 4, 1999, 2:20 p.m.]

Date of Adoption: July 9, 1999.

Purpose: Clarify labeling and grade tolerance requirements for apricots.

Citation of Existing Rules Affected by this Order: Amending chapter 16-406 WAC, Standards for apricots.

Statutory Authority for Adoption: Chapter 15.17 RCW, Standards of grades and packs.

Adopted under notice filed as WSR 99-08-108 on April 7, 1999.

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 1, Amended 3, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

July 9, 1999  
 Jim Jesernig  
 Director

AMENDATORY SECTION (Amending Order 1015, Regulation B, filed 4/29/66)

**WAC 16-406-020 Tolerances.** (1) In order to allow for variations incident to proper grading and handling, not more than a total of ten percent of the apricots in any ~~((container))~~ lot may be below the requirements of grade, provided that not more than five percent shall be seriously damaged by insects, and not more than one percent shall be allowed for decay or internal breakdown: Provided, That in addition in Washing-

ton No. 1 not more than ten percent, by count, of the apricots in any lot may be damaged but not seriously damaged by bruising.

(2) When applying the foregoing tolerances to the combination grade no part of any tolerance shall be used to reduce the percentage of Washington No. 1 apricots required in the combination, but individual containers may have not more than ten percent less than the percentage of Washington No. 1 required, provided that the entire lot averages within the percentage specified.

NEW SECTION

**WAC 16-406-025 Application of tolerances.** (1) The contents of individual samples are subject to the following limitations: Provided, That the averages for the entire lot are within the tolerances specified for this grade.

(2) For packages which contain more than ten pounds, and a tolerance of ten percent or more is provided, individual samples in any lot shall have not more than one and one-half times the tolerance specified. For packages which contain more than ten pounds and a tolerance of less than ten percent is provided, individual samples in any lot shall have not more than double the tolerance specified: Provided, That not more than one apricot which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any sample.

(3) Washington No. 1 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may have more than three times the tolerances specified, except that at least one defective apricot may be permitted in any sample: Provided, That not more than one apricot or more than six percent (whichever is the larger amount) may be affected by decay or internal breakdown.

(4) Washington No. 2 grade. For packages containing ten pounds or less: Not more than ten percent of the samples may contain more than three times the tolerances specified.

AMENDATORY SECTION (Amending Order 1015, Regulation C, filed 4/29/66)

**WAC 16-406-030 Marking and packing requirements.** (1) When the numerical count is used, the apricots in any container shall not vary more than one fourth inch in diameter. In order to allow for variations incident to proper sizing, not more than ten percent, by ~~((weight))~~ count, of the apricots in any package may be below the minimum size specified ~~((except when in packed containers when the variation in size in the individual package does not exceed one fourth inch in diameter))~~. The determination of grade may be made on the count basis.

(2) When apricots are prepared for market and/or offered for sale in containers, open or closed, such containers shall have stamped thereon the variety, grade, and packer's, grower's or shipper's name and address, ~~((and the net weight))~~ count, or net weight and minimum diameter.

(These marking requirements do not apply to apricots being sold or shipped to canneries)

PERMANENT

**AMENDATORY SECTION** (Amending Order 1015, Regulation E, filed 4/29/66)

**WAC 16-406-050 Definition of terms.** As used in these grades:

(1) "Mature" means having reached the stage of maturity which will insure a proper completion of the ripening process.

(2) "Well formed" means having the shape characteristic of the variety.

(3) "Damage" means that the apricot is injured to an extent readily apparent in the process of proper grading and handling. Well healed growth cracks not over three eighths of an inch in length, punctures not over three sixteenths of an inch in diameter, stem pulls not over three-eighths of an inch in diameter (except for the Riland variety - growth cracks not over three-eighths of an inch in length, punctures not over one-fourth of an inch in diameter and stem pulls not over one-half inch in diameter) or smooth shallow limb rubs not more than one-fourth of an inch in diameter or russetting affecting not to exceed one-tenth of the surface of the apricot shall not be regarded as damage. Bruises not to exceed five percent of the surface of the apricot shall not be regarded as damage.

(4) Hail marks that are shallow and superficial or not more than three-eighths of an inch in diameter in the aggregate, or when the skin has been broken, except that not to exceed one well healed hail mark, such mark not to exceed one-eighth of an inch in diameter will not be considered as damage.

(5) "Serious damage" means immaturity, or any deformity or injury which causes breaking of the skin in excess of three-eighths of an inch in diameter or which seriously affects the appearance, but well healed growth cracks, not over one-half inch in length, shall not be regarded as serious damage. Except for the Riland variety - growth cracks that are not well healed and not over one-half inch in length shall not be regarded as serious damage. Bruises not to exceed ten percent of the surface of the apricot shall not be regarded as serious damage. Hail marks that are not more than three-sixteenth of an inch deep, or not more than one-half of an inch in diameter in the aggregate or when the skin has been broken, except that not to exceed four well healed hail marks, each such mark not to exceed one-eighth of an inch in diameter, will not be considered as serious damage.

(6) "Diameter" means the greatest diameter, measured through the center of the apricot, at right angles to a line running from the stem to the blossom end. Apricots having a diameter of one and one-half inches or larger, ring measurement, ~~((shall))~~ may be considered large, while the apricots having a diameter of less than one and one-half inches ~~((shall))~~ may be designated as small.

(7) The following will be taken into consideration in determining maturity:

(a) Ambering—Replacement of the green color of the flesh immediately around the pit by an amber shade is recognized by many authorities on apricots as an indicator of maturity.

(b) Springiness—This condition develops in connection with the separation of the flesh from the pit and is an indication that the fruit is reaching proper tree maturity for picking

for fresh shipment. Springiness may be detected by external pressure on the fruit or by cutting the apricot in half at right angles to the longitudinal axis and noting how one-half or both halves slip away from the pit.

(c) Taste—On a tree whose fruit is ready for harvest for fresh shipment it is usually impossible to find at least an occasional fruit which has lost sufficient of its green taste to be fairly palatable. In using this test, do not be misled by fruits which may be maturing abnormally because of worm infestation.

(d) Separation of fruit from stem—The manner in which fruit may be separated from its stem is some indication of maturity, the more immature fruit tending to tear the adjacent skin and flesh more than fruit which is near proper maturity.

(8) The following varieties shall not be considered to have reached that stage of maturity which will insure a proper completion of the ripening process until they have developed characteristic turning or yellow (shades Nos. 3 or 4 on U.S. standard ground color chart) on the minimum percentage of surface area as stated opposite the varietal name:

Moorpark	—20%
Gilbert or Newcastle	—50%
Tilton	—40%
Blenheim	—40%
Royal	—40%

**WSR 99-17-023**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Medical Assistance Administration)

[Filed August 10, 1999, 10:58 a.m.]

Date of Adoption: August 10, 1999.

Purpose: Implement a state-funded categorically needy scope of care program for alien children who arrived in the United States after August 22, 1996, and whose family income is less than 200% of the federal poverty level. These rules were rewritten in order to comply with the principles of Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Amending WAC 388-424-0005, 388-424-0010, and 388-505-0210.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: RCW 74.08A.100.

Adopted under notice filed as WSR 99-13-126 on June 16, 1999.

Changes Other than Editing from Proposed to Adopted Version: Added language in WAC 388-505-0210(3) concerning eligibility criteria for a child who would be eligible for children's health insurance, several editorial changes, and corrected cross-references.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 10, 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 388-424-0005 The effect of citizenship and alien status** ~~(—General)~~ **on eligibility** ~~((conditions))~~ **for benefits.** (1) To receive benefits ~~((for))~~ under the temporary assistance for needy families (TANF), Medicaid, ~~((and))~~ children's health insurance program (CHIP) or federal food stamp ~~((s))~~ program, a person ~~((s))~~ must be a:

- (a) U.S. citizen ~~((s))~~;
- (b) U.S. national ~~((s))~~; or
- (c) Qualified alien ~~((s))~~ who meets the ~~((additional conditions))~~ eligibility requirements described in:
  - (i) WAC 388-424-0010 ~~((relative to))~~ for TANF ~~((and))~~, Medicaid, and CHIP; or
  - (ii) WAC 388-424-0020 ~~((relative to))~~ for federal food stamps.

(2) To receive benefits under the general assistance and ADATSA programs, a person must be a:

- (a) U.S. citizen;
- (b) U.S. national;
- (c) Qualified alien; or
- (d) A PRUCOL alien as defined in subsection (4) of this section.

(3) Qualified aliens are ~~((aliens))~~ any of the following:

- (a) ~~((Who are))~~ Lawful permanent residents under the Immigration and Nationality Act (INA);
- (b) ~~((Who are))~~ Those granted asylum under section 208 of the INA;
- (c) ~~((Who are))~~ Those paroled ~~((into the U.S.))~~ under section 212 (d)(5) of the INA for at least one year;
- (d) ~~((Who are))~~ Those admitted ~~((to the U.S.))~~ as refugees under section 207 of the INA;
- (e) ~~((Who are))~~ Aliens whose deportation (removal) is being withheld under section 241 (b)(3) or 243(h) of the INA;
- (f) ~~((Who are))~~ Those granted conditional entry ~~((into the U.S.))~~ under section 203 (a)(7) of the INA as in effect prior to April 1, 1980;

(g) ~~((Who are))~~ Cuban and Haitian entrants as defined in section (501)(e) of the Refugee Education Assistance Act of 1980; or

(h) ~~((Who are))~~ Amerasians admitted under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as amended); or

(i) Aliens who are victims of domestic violence, or whose children are victims of domestic violence, when:

(i) The domestic violence ~~((is))~~ was committed in the U.S. by the alien's spouse, parent, or a member of the spouse or parent's family residing in the same household as the alien; ~~((and))~~

(ii) ~~((In situations where the children are the victims of domestic violence,))~~ The alien did not actively participate in the violence against his or her own children when the children are the victims of domestic violence; ~~((and))~~

(iii) The alien no longer resides with the person who committed the domestic violence; ~~((and))~~

(iv) There is a substantial connection between the domestic violence and the need for public assistance benefits; and

(v) The alien has an application with the Immigration and Naturalization Service (INS) either approved or pending for:

(A) Legal immigration status under section ~~((s))~~ 204 (a)(1)(A) ~~((iii)(i) and))~~ or section 204 (a) ~~((1)(A)(iv))~~ (1)(B) of the INA; or

(B) ~~((Suspension of deportation or))~~ Cancellation of removal under section 244 (a)(3) of the INA as in effect prior to April 1, 1997 or section 240A (b)(2) of the INA.

~~((3))~~ To receive benefits under the general assistance and ADATSA programs, persons must be:

- (a) U.S. citizens;
- (b) U.S. nationals;
- (c) Qualified aliens; or
- (d) Aliens permanently residing in the U.S. under color of law ~~((PRUCOL))~~;

(4) ~~((Aliens are considered to be PRUCOL when))~~ A PRUCOL alien must meet all of the following conditions:

- (a) They are permanently residing in the U.S. ~~((, who))~~;
- (b) They do not meet ~~((the))~~ a definition of a qualified alien as defined in subsection ~~((2))~~ (3) of this section ~~((, and))~~ ~~((a))~~;
- (c) The INS knows they are residing in the U.S. ~~((,))~~; and
- ~~((b))~~ (d) The INS is not likely to enforce their departure.

(5) During the application process, one of the following persons must indicate on the application for benefits whether each household member is a U.S. citizen or qualified alien:

- (a) An adult applicant in the household; or
- (b) The person applying for benefits when there are no adults in the household.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-424-0010 Alien status—Eligibility requirements for the temporary assistance for needy families program and medical benefits.** (1) Qualified aliens as described in WAC 388-424-0005(3) who were residing in the U.S. before August 22, 1996 ~~((can))~~ may receive temporary

assistance for needy families (TANF) ~~((and))~~, Medicaid, and CHIP benefits.

(2) Qualified aliens who first physically ~~((enter))~~ entered the U.S. ~~((on or))~~ after August ~~((22))~~ 21, 1996 cannot receive TANF ~~((or))~~, Medicaid, or CHIP for five years after their date of entry, unless they are any of the following:

(a) ~~((Refugees admitted to the U.S. under section 207 of the Immigration and Nationality Act (INA);~~

~~(b) Aliens granted asylum under section 208 of the INA;~~

~~(c) Aliens whose deportation is being withheld under section 243(h) of the INA;~~

~~(d) Cuban and Haitian entrants as defined in section 501(c) of the Refugee Education Assistance Act of 1980;~~

~~(e) Amerasians admitted to the U.S. under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as amended); or~~

~~(f)) An alien as described under WAC 388-424-0005 (3)(b), (d), (e), (g), or (h); or~~

(b) A lawful permanent resident((s who are)) who is:

(i) On active duty in the U.S. military, other than active duty for training;

(ii) An honorably discharged U.S. veteran((s));

(iii) A veteran((s)) of the military forces of the Philippines who served prior to July 1, 1946, as described in Title 38, section 107 of the U.S. code;

(iv) A Hmong ~~((and))~~ or Highland Lao veteran((s)) who served in the military on behalf of the U.S. Government during the Vietnam conflict; or

(v) The spouse or unmarried dependent ~~((children))~~ child(ren) of a person described in subsection((s)) (2)(f)(i) through (iv) of this section.

(3) ~~((An))~~ Aliens who ~~((would))~~ qualify for Medicaid benefits, but ~~((is))~~ are determined ineligible ~~((solely))~~ because of ~~((his or her))~~ alien status or requirements for a Social Security Number, ~~((can))~~ may receive medical coverage as follows:

(a) State-funded categorically needy (CN) scope of care for:

(i) Pregnant women, as specified in WAC 388-462-0015;

(ii) Children~~((, through the children's health program,))~~ as specified in WAC 388-505-0210;

(iii) Persons eligible for or receiving cash assistance under the state family assistance program (SFA); ~~((and))~~ or

(iv) ~~((Persons))~~ Aliens who were lawfully residing in the U.S. ~~((prior to))~~ before August 22, 1996, including PRUCOL aliens as defined in WAC 388-424-0005(4).

(b) Alien emergency medical services as specified in WAC 388-438-0110.

(4) ~~((A person's))~~ Alien status ~~((is not used to determine))~~ does not effect eligibility for the medically indigent program ~~((as))~~ described in WAC 388-438-0100.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-505-0210 Children's medical eligibility.**

(1) A child under the age of one is eligible for ~~((newborn))~~ categorically needy (CN) ~~((children's))~~ medical assistance when:

(a) The child's mother~~((s))~~ was eligible for and receiving coverage under a medical ~~((assistance))~~ program at the time of the child's birth; and

(b) ~~((The child is under one year of age; and~~  
~~((e)))~~ The child remains with the mother and resides in the state.

(2) Children under the age of nineteen are eligible for CN medical assistance when they meet the requirements for:

(a) ~~((Meet the requirements of:~~

~~((i)))~~ Citizenship or ~~((immigrant))~~ U.S. national status as described in ~~((chapter 388-424))~~ WAC 388-424-0005(1) or immigrant status as described in WAC 388-424-0010(1) or (2); ~~((and~~

~~((ii)))~~ (b) State residence as described in chapter 388-468 WAC; ~~((and~~

~~((iii)))~~ (c) A social security number as described in chapter 388-476 WAC; and

~~((b-Meet))~~ (d) Family income levels as described in WAC 388-478-0075~~((; or~~

~~((e-Meet the requirements of WAC 388-505-0220 or 388-523-0100))~~ (1)(c).

(3) Upon implementation of the children's health insurance program (CHIP) as described in chapter 388-542, WAC, children under the age of nineteen are eligible for CHIP when:

(a) They meet the requirements of subsection (2)(a) and (b) of this section;

(b) They do not have other creditable health insurance coverage; and

(c) Family income exceeds two hundred percent of the federal poverty level (FPL), but does not exceed two hundred fifty FPL as described in WAC 388-478-0075 (1)(c) and (d).

(4) Children under the age of nineteen who first physically entered the U.S. after August 21, 1996 are eligible for state-funded CN scope of care when they meet the:

(a) Eligibility requirements in subsection (2)(b), (c), and (d) of this section; and

(b) Qualified alien requirements for lawful permanent residents, parolees, conditional entrants, or domestic violence victims as described in WAC 388-424-0005 (3)(a), (c), (f), or (i).

(5) Children under the age of twenty-one are eligible for CN medical assistance when they:

(a) Meet citizenship or immigrant status, state residence, and social security number requirements as described in subsection (2)(a), (b), and (c) of this section; ~~((and))~~

(b) Meet income levels described in WAC 388-478-0075 when income is counted according to WAC 388-408-0055 (1)(c); and

(c) Meet one of the following criteria:

(i) Reside in ~~((an institution-))~~ a medical hospital, intermediate care facility for mentally retarded (ICF/MR), or nursing ~~((home))~~ facility~~((as described in WAC 388-513-1320))~~ for more than thirty days; ~~((or~~

~~((d)))~~ (ii) Reside in a psychiatric or chemical dependency facility ~~((as described in WAC 388-513-1320.~~

(4) Children under the age of twenty-one are eligible for CN if they:

~~((a)))~~;

(iii) Are in foster care; or

~~((b))~~ (iv) Receive subsidized adoption services.

~~((5))~~ (6) Children ~~(, regardless of age,)~~ are eligible for CN medical assistance if they ~~((are eligible to))~~;

(a) Receive Supplemental Security Income (SSI) payments based upon their own disability ~~((~~

~~(6) Children are eligible for CN medical if they))~~; or

(b) Received SSI payments for August 1996, and except for the passage of amendments to federal disability definitions, would be eligible for SSI payments.

(7) Children under the age of nineteen are eligible for Medically Needy (MN) medical assistance when they:

(a) Meet citizenship or immigrant status, state residence, and social security number requirements as described in subsection (2)(a), (b), and (c); and

(b) Have income at or above the income levels described in WAC ~~((388-478-0070))~~ 388-478-0075 (1)(c).

(8) A child is eligible for SSI-related MN when the child:

(a) ~~((They meet))~~ Meets the conditions in subsection ~~((7))~~ (6)(a) ~~((and (b)))~~; ~~((and))~~

(b) ~~((They meet))~~ Meets the blind and/or disability criteria of the federal SSI program; and

(c) Has family income above the level described in WAC 388-478-0070(1).

(9) Nonimmigrant children, including visitors or students from another country and undocumented children, under the age of eighteen are eligible for the state-funded children's health program, if ~~((they))~~:

(a) ~~((Are))~~ The department determines the child ineligible for any CN or MN scope of care medical program; ~~((and))~~

(b) ~~((Meet))~~ They meet family income levels described in WAC 388-478-0075 (1)(a); and

(c) They meet state residency requirements as described in chapter 388-468 WAC.

(10) There are no resource standards for ~~((either))~~ the children's CN or the state-funded CN scope of care, or the children's health programs.

~~((The requirements in WAC 388-503-0505 (3)(e) and (d) do not apply to persons applying for the state-funded children's health program.~~

~~((2))~~ Children may also be eligible for:

(a) Temporary assistance for needy families (TANF) or state ~~((funded))~~ family assistance (SFA)-related medical as described in WAC 388-505-0220; and

(b) TANF/SFA-related medical extensions as described in WAC 388-523-0100.

~~((13))~~ (12) Except for a client described in subsection ~~((3))~~ (4)(c) and (d), an inmate of a public institution, as defined in WAC 388-500-0005, is not eligible for CN or MN medical coverage.

**WSR 99-17-025**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)  
(Division of Assistance Programs)

[Filed August 10, 1999, 11:04 a.m., effective October 1, 1999.]

Date of Adoption: August 10, 1999.

Purpose: Amend 388-400 series WAC to correct inadvertent errors, update program policy, and clarify existing rules. Corrected complaint procedure, clarified income types, expanded client rights, and added missing information regarding social security number disqualifications.

Citation of Existing Rules Affected by this Order: Amending WAC 388-426-0005, 388-450-0015, 388-450-0025, 388-450-0030, 388-472-0005, and 388-476-0005.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Adopted under notice filed as WSR 99-13-192 on June 23, 1999.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-426-0005(1) revised to strike the word "written" in order to comply with federal 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 3, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Effective Date of Rule: October 1, 1999.

August 10, 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 388-426-0005 Client complaints.** (1) Clients who believe they have been discriminated against by the department for reason of ~~((age,))~~ race, color, ~~((sex))~~ creed, ~~((disability, religious creed,))~~ political ~~((beliefs or))~~ affiliation, national origin, religion, age, gender, disability, or birthplace have the right to file a ~~((written))~~ complaint ~~((~~

~~((a) Clients wishing to file a complaint of discrimination regarding food stamp benefits must send complaints to food and nutrition services (FNS); and~~

~~((b) Clients of all other programs must send discrimination complaints to the state office of equal opportunity (OEO), Olympia WA.~~

~~(2))~~. Clients can file discrimination complaints with the:

~~(a)~~ DSHS, Division of Access and Equal Opportunity, PO Box 45012, Olympia, WA, 98504;

~~(b)~~ Administrator, Food and Nutrition Services, 3101 Park Center Drive, Alexandria, VA, 22302; or

~~(c)~~ Secretary of Agriculture, U.S. Department of Agriculture, Washington D.C., 20250.

~~(2)~~ Clients with a complaint about a department decision or action have the right to present their complaint, in writing, to a supervisor.

~~(a)~~ Within ten days of the receipt of the complaint:

~~((a))~~ ~~(i)~~ A decision will be made on the client's complaint; and

~~((b))~~ ~~(ii)~~ The client will be sent written notice of the decision, including information about the right to further review by the local office administrator.

~~((3))~~ ~~(b)~~ Clients not satisfied with the decision of a supervisor have the right to present a written complaint to the local office administrator. Within ten days of the receipt of the complaint:

~~((a))~~ ~~(i)~~ A decision will be made on the complaint, and

~~((b))~~ ~~(ii)~~ The client will be sent written notice of the decision.

~~((4))~~ ~~(c)~~ Written notice of the administrator's decision concludes the complaint procedure.

~~((5))~~ ~~(d)~~ The filing of a written complaint does not prevent a client from requesting a fair hearing under ~~((chapter 388-08))~~ WAC 388-08-413.

~~((6))~~ ~~(e)~~ Clients have the right to speak to a worker's supervisor or have a decision or action reviewed by the supervisor, whether or not a formal complaint has been filed.

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-450-0015 Excluded and disregarded income.** This section applies to TANF/SFA, RCA, GA, TANF/SFA-related medical and food assistance programs.

(1) Excluded income ~~((means))~~ is income that is not counted when determining a client's eligibility and benefit level. ~~((Excluded income types are defined by state and federal laws.))~~ Types of excluded income include but are not limited to:

(a) Bona fide loans as defined in WAC 388-470-0025, except certain student loans as specified under WAC 388-450-0035.

(b) Federal earned income tax credit (EITC) payments;

(c) Title IV-E(-) and state ~~((and or local))~~ foster care maintenance payments if the foster child is not included in the assistance unit;

(d) Energy assistance payments;

(e) Educational assistance as specified in WAC 388-450-0035;

(f) Native American benefits and payments as specified in WAC 388-450-0040;

(g) Income from employment and training programs as specified in WAC 388-450-0045; ~~((and))~~

(h) ~~((Any amount))~~ Money withheld from a client's benefit to repay an overpayment ~~((by))~~ from the same income

source ~~((agency))~~. For food assistance, this exclusion does not apply when the ~~((amount))~~ money is withheld to ~~((recover))~~ recover an intentional noncompliance overpayment from a federal, state, or local means tested program ~~((:))~~ such as TANF/SFA, GA, and SSI; and

(i) Child support payments received by TANF/SFA recipients ~~((which have been assigned to the department as a condition of receiving assistance)).~~

(2) For food assistance programs, the following income types are excluded:

(a) Emergency additional requirements authorized to TANF/SFA and RCA clients under WAC 388-436-0001 and paid directly to a third party;

(b) Cash donations based on need received directly by the household if the donations are:

(i) Made by one or more private, nonprofit, charitable organizations; and

(ii) Do not exceed three hundred dollars in any federal fiscal year quarter.

(c) Infrequent or irregular income, received during a three-month period by a prospectively budgeted assistance unit, that:

(i) Cannot be reasonably anticipated as available; and

(ii) Does not exceed thirty dollars for all household members.

(3) All income that is not excluded is considered to be part of an assistance unit's gross income. ~~((Gross income is used to determine an assistance unit's eligibility as follows:))~~

~~((a))~~ For TANF/SFA, RCA, GA S, and GA H, the assistance unit is ineligible if its gross income exceeds 185 percent of the need standard as specified in WAC 388-478-0015; and

~~((b))~~ (4) For ~~((ertain))~~ food assistance households not containing an elderly or disabled member, the assistance ~~((unit's))~~ unit is ineligible if its gross income ~~((cannot))~~ exceeds one hundred thirty percent of the federal poverty level ~~((for the forty eight contiguous states))~~ as specified in WAC 388-478-0060.

~~((4))~~ (5) Disregarded income ~~((means))~~ is income that is ~~((not excluded))~~ counted when determining an assistance unit's gross income but ~~((which))~~ is ~~((disregarded))~~ not used when determining an assistance unit's countable income. Types of disregarded income ~~((are defined by state and federal laws. Disregarded income))~~ include ~~((s))~~ but ~~((is))~~ are not limited to:

(a) Earned income incentives and disregards for cash assistance; and

(b) Earned income disregard and income deductions for food assistance ~~((income deductions)).~~

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-450-0025 Unearned income.** This section applies to TANF/SFA, RCA, GA, TANF/SFA-related medical and food assistance programs.

(1) Unearned income is income a person receives from a source other than employment or self-employment. Examples of unearned income include but are not limited to:

(a) Railroad Retirement;

- (b) Unemployment Compensation; or
- (c) Veteran Administration benefits.

(2) For food assistance programs, unearned income includes the amount of cash benefits due the client prior to any reductions caused by the client's failure to perform an action required under a federal, state, or local means-tested public assistance program.

~~((3) Unearned income is budgeted in its entirety.))~~

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-450-0030 Earned income definition.**

Unless specifically stated, this section applies to TANF/SFA, RCA, GA, TANF/SFA-related medical and food assistance programs.

(1) Earned income ~~((means))~~ is:

(a) Income a person receives in the form of cash or in-kind, which is a gain or benefit to the person, when earned as a wage, salary, tips, gratuities, commissions, or profit from self-employment activities.

(b) Income over a period of time for which settlement is made at one time, such as sale of farm crops, livestock, or poultry.

(2) For food assistance programs only, income in-kind is excluded.

~~((2))~~ (3) Earned income from self-employment is determined as specified under WAC 388-450-0080.

~~((3))~~ (4) For TANF/SFA, RCA, GA-H, and TANF/SFA-related medical assistance, earned income includes time-loss compensation as specified in WAC 388-450-0075.

~~((4) For food assistance programs only, income in-kind is excluded.))~~

**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-472-0005 Client rights and responsibilities.** Unless specifically stated, the following rules apply to cash, food and medical assistance programs.

(1) A person who applies for or receives public assistance has the right to:

(a) Be treated politely and fairly without regard to race, color, creed, political affiliation, national origin, religion, age, ~~((sex))~~ gender, disability~~((;))~~ or birthplace~~((; or marital status))~~;

(b) File an application on the same day, during regular business hours, that the person contacts the department. A client has the right to get a receipt when leaving an application or other materials with the department;

(c) Have an application promptly accepted and promptly acted upon;

(d) Ask that the application be processed without delay if the person is pregnant, in need of immediate medical care, experiencing an emergency such as having no money for food, or facing an eviction~~((; needing medical care that cannot wait or being pregnant))~~. If a pregnant client requests an interview, she has ~~((a))~~ the right to have one within five working days;

(e) Get a written decision in most cases within thirty days.

(i) Medical and some disability cases may take forty-five to sixty days. Pregnancy medical will be authorized within fifteen working days.

(ii) Food stamps will be authorized within thirty days if the person is eligible. If the person is eligible and has little or no money, food stamps will be authorized within five days;

(f) Be fully informed, in writing, of all legal rights and responsibilities in connection with public assistance;

(g) Have information kept private. The department may share some facts with other agencies for efficient management of federal and state programs;

(h) For cash and medical assistance programs, ask the department not to collect child support if the absent parent may harm the person or person's child;

(i) For cash assistance programs, ask for extra money to help in an emergency, such as an eviction or a utility shutoff;

(j) Get a written notice, in most cases, at least ten days before the department makes changes to lower or stop benefits;

(k) Ask for a fair hearing if the person does not agree with the department about a decision. Without affecting the right to a fair hearing, the person can also ask a supervisor or administrator to review an employee decision or action;

(l) Have interpreter or translator services at no cost or undue delay;

(m) Refuse to speak to a fraud early detection (FRED) investigator from the division of fraud investigations. The person does not have to let an investigator into the home. The person may ask the investigator to come back at another time. Such a request will not affect the person's eligibility for benefits;

(n) For medical assistance programs only: A person applying for or receiving medical assistance, limited casualty programs, medical care services, or children's health services has the same rights as cash assistance clients; and

(o) Receive help from the department to register to vote.

(2) A client is responsible for:

(a) Reporting any changes to the department within ten days for all cash and food assistance programs and twenty days for all medical assistance programs;

(b) Giving all the facts needed to determine eligibility;

(c) Giving the department proof of any facts for which proof is needed;

(d) For most cash or medical assistance programs related to children, cooperating with the department to get child support or medical care support unless it can be shown that harm to the person or child may occur;

(e) For cash or medical assistance programs, applying for and taking any benefits from other programs, if eligible;

(f) Completing reports and reviews when asked to do so;

(g) Seeking and taking a job or training if required; and

(h) For medical assistance programs only, showing the medical identification card or other adequate department generated notification of eligibility to the medical care provider.

(3) Clients will be screened and provided with necessary supplemental accommodation as specified under WAC 388-200-1300.



**AMENDATORY SECTION** (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-476-0005 Social Security Number requirements.** (1) With certain exceptions, each person who applies for or receives cash, medical or food assistance benefits must provide to the department a Social Security Number (SSN), or numbers if more than one has been issued.

(2) If the person is unable to provide the SSN, either because it is not known or has not been issued, the person must:

- (a) Apply for the SSN;
- (b) Provide proof that the SSN has been applied for; and
- (c) Provide the SSN when it is received.

(3) Assistance will not be delayed, denied or terminated pending the issuance of an SSN by the Social Security Administration. However, a person who does not comply with these requirements is not eligible for assistance.

(4) For cash, medical, and food assistance benefits, a person cannot be disqualified from receiving benefits for refusing to apply for or supply an SSN based on religious grounds.

(5) For food assistance programs:

(a) A person can receive benefits for the month of application and the following month if the person attempted to apply for the SSN and made every effort to provide the needed information to the Social Security Administration.

(b) A newborn may receive benefits for up to six months from the date of birth if the household is unable to provide proof of application for an SSN at the time of birth.

~~((5))~~ (6) For medical programs, a newborn as described in WAC 388-505-0210(1) is eligible for categorically needy (CN) medical without meeting the SSN requirement ~~(These coverage provisions continue until one of the following occurs:~~

~~(a) The newborn leaves the household of the birth mother; or~~

~~(b) The newborn's first birthday;~~

~~(6)) until the baby's first birthday.~~

(7) There is no SSN requirement for the following programs:

- (a) The consolidated emergency assistance program;
- (b) The refugee cash and medical assistance program;
- (c) The medically indigent program;
- (d) The alien emergency medical program;
- (e) The state-funded pregnant woman program;
- (f) The children's health program; and
- (g) Detoxification services.

### WSR 99-17-026

#### PERMANENT RULES DEPARTMENT OF

#### LABOR AND INDUSTRIES

[Filed August 10, 1999, 4:18 p.m., effective November 10, 1999]

Date of Adoption: August 10, 1999.

Purpose: Changes adopted in chapters 296-62 WAC, Part I-1, and chapter 296-65 WAC, incorporate new OSHA changes to the scope of the federal construction and shipyard

standards; add existing OSHA requirements; clarify existing WISHA requirements; correct errors; and eliminate two interim department policies.

Citation of Existing Rules Affected by this Order: Chapter 296-62 WAC, General occupational health standards, WAC 296-62-07701 Scope and application, 296-62-07703 Definitions, 296-62-07709 Exposure assessment and monitoring, 296-62-07712 Requirements for asbestos activities in construction and shipyard work, 296-62-07713 Methods of compliance for asbestos activities in general industry, 296-62-07721 Communication of hazards to employees, 296-62-07722 Employee information and training, 296-62-07728 Competent person, 296-62-07735 Appendix A—WISHA reference method—Mandatory, and 296-62-07737 Appendix B—Detailed procedures for asbestos sampling and analysis—Nonmandatory.

Chapter 296-65 WAC, Asbestos removal and encapsulation, WAC 296-65-003 Definitions, 296-65-010 Asbestos worker certification, 296-65-012 Asbestos supervisor certification, 296-65-020 Notification requirements, 296-65-025 Fees, and 296-65-030 Methods of compliance.

Other regulations related to WISHA's asbestos rules include:

- OSHA rules in 29 C.F.R. 1910.1001, 29 C.F.R. 1915.1001, and 29 C.F.R. 1926.1101.
- EPA rules in 40 C.F.R. Part 763.
- Chapter 49.26 RCW.

Statutory Authority for Adoption: RCW 49.17.040, 49.17.050, 49.26.040, and 49.26.130.

Adopted under notice filed as WSR 99-08-071 on April 5, 1999.

Changes Other than Editing from Proposed to Adopted Version:

**WAC 296-62-07709 Exposure assessment and monitoring.**

- In subsection (3)(c), deleted the phrase "of this section."
- In subsection (3)(c), moved the requirement for monitoring outside negative-pressure enclosures from subsection (3)(c)(iv) to subsection (3)(e). This is a different type of monitoring and not part of periodic monitoring. The subsections following (3)(e) are lettered appropriately.

**WAC 296-62-07712 Requirements for asbestos activities in construction and shipyard work.**

In subsection (9)(d), we corrected a reference by changing "(9)(a) and (b)" to "(2)." Also, we clarified the requirements by moving the language from 9 (b)(iii) to (9)(c).

**WAC 296-62-07713 Methods of compliance for asbestos activities in general industry.**

In subsection (1)(g), we changed the sentence to make it easier to understand.

**WAC 296-62-07722 Employee information and training.**

- In subsection (3)(ii)(C), we added the phrase "done in accordance with training" to clarify that the department approves the training - not the work.

Based on a public comment, we made the following changes in subsection (4)(b):

PERMANENT

- Rewrote the exception to 16-hour training for Class III work, making it easier to understand.
- Moved the exception into subsection (4)(b)(i) so that all of the basic requirements related to how much training is required are together.
- Moved all of the requirements about what must be included in the 16-hour training to subsection (4)(b)(ii).
- Added the word "is."
- Made subsections (4)(a), (b) and (c) consistent. Under each of these subsections,
  - item (i) contains the how many hours of training is required and any exceptions, and
  - item (ii) contains what must be included in a particular training course.
  - In subsection (4)(b) and (c), we also added "maintenance and custodial work in building containing asbestos-containing materials" into the titles, making them consistent. This also clarifies that workers doing this type of work may not be maintenance and custodial workers.

#### WAC 206-62-07728 Competent person.

- In subsection (5)(b)(ii), we removed the phrase, "and asbestos work exempted from certification requirements in chapter 296-65 WAC," based on public comment. This makes the rule consistent with RCW 49.26.115 Asbestos abatement projects.
- In subsections (5)(a) and (5)(b)(ii), we added bullet points to list the training requirements and make them easier to understand.

#### WAC 296-65-020 Notification requirements.

- In subsection (1), we also added the phrase "as defined in WAC 296-62-07722 and 296-65-003" to include the exceptions deleted from the definition of asbestos project. This was inadvertently left out of proposal.
- In subsection (1)(e), we added the phrase "for asbestos removal" to clarify how contract dates must correspond to dates in the notice.
- In subsection (1)(e), we also changed the wording to indicate that all notices may be sent to the department by facsimile.

#### WAC 296-65-030 Methods of compliance.

We made the following changes based on public comments.

- In subsection (2), we moved the word "linear" to the correct place in the sentence.
- In subsection (4), we added a reference in subsection (4) to include the exceptions that were deleted from the asbestos project definition. This change is based on public comment.
- In subsection (5), we changed the wording of the second sentence to make it easier to understand. This change is based on public comment.
- In subsection (5), we added the word "be" to correct a grammatical error in the proposal.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 2, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 16, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 16, 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 16, Repealed 0.

Effective Date of Rule: November 10, 1999.

July 30, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07701 Scope and application.** (1) WAC 296-62-07701 through 296-62-07753 applies to all occupational exposures to asbestos in all industries covered by ~~((the))~~ chapter 49.17 RCW, Washington Industrial Safety and Health Act and chapter 49.26 RCW, Health and Safety—Asbestos.

(2) This ~~((section does apply))~~ part applies to construction work as defined in WAC 296-155-012 except for work involving asbestos-containing asphalt roof coatings, cements, and mastics. The exception for roofing materials does not apply to asphalt coated asbestos felting and similar built-up roofing.

(3) This ~~((section does apply))~~ part applies to ship repairing, shipbuilding and shipbreaking employments and related employments as defined in WAC 296-304-01001 except for work involving asbestos-containing asphalt roof coatings, cements, and mastics. The exception for roofing materials does not apply to asphalt coated asbestos felting and similar built-up roofing.

AMENDATORY SECTION (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07703 Definitions.** For the purpose of WAC 296-62-07701 through 296-62-07753:

**Accredited inspector** means any person meeting the accreditation requirements of the Federal Toxic Substance Control Act, Section 206(a)(1) and (3). 15 U.S.C. 2646(a)(1) and (3).

**Aggressive method** means removal or disturbance of building material by sanding, abrading, grinding or other method that breaks, crumbles, or disintegrates intact ACM.

**Amended water** means water to which surfactant (wetting agent) has been added to increase the ability of the liquid to penetrate ACM.

**Asbestos** includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

For purposes of this standard, "asbestos" includes PACM, as defined below.

**Asbestos abatement project** means an asbestos project involving three square feet or three linear feet, or more, of asbestos-containing material.

**Asbestos-containing material (ACM)** means any material containing more than 1% asbestos.

**Asbestos project** (~~—definition as stated in WAC 296-65-003~~) includes the construction, demolition, repair, remodeling, maintenance or renovation of any public or private building or structure, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of material or outdoor activity releasing or likely to release asbestos fibers into the air.

**Authorized person** means any person authorized by the employer and required by work duties to be present in regulated areas.

**Building/facility/vessel owner** means any legal entity or person who owns any public or private building, vessel, structure, facility, or mechanical system or the remnants thereof, including the agent of such person, but does not include individuals who work on asbestos projects in their own single-family residences, no part of which is used for commercial purposes. Also included is any lessee, who exercises control over management and record keeping functions relating to a building, vessel, and/or facility in which activities covered by this standard takes place.

**Certified asbestos supervisor** means an individual certified by the department under WAC 296-65-012.

**Certified asbestos worker** means an individual certified by the department under WAC 296-65-010.

**Certified industrial hygienist (CIH)** means one certified in the practice of industrial hygiene by the American Board of Industrial Hygiene.

**Class I asbestos work** means activities involving the removal of thermal system insulation or surfacing ACM/PACM.

**Class II asbestos work** means activities involving the removal of ACM which is not thermal system insulation or surfacing material. This includes, but is not limited to, the removal of asbestos-containing wallboard, floor tile and sheeting, roofing and siding shingles, and construction mastics.

**Class III asbestos work** means repair and maintenance operations where "ACM," including TSI and surfacing ACM and PACM, may be disturbed.

**Class IV asbestos work** means maintenance and custodial activities during which employees contact but do not disturb ACM or PACM and activities to clean up dust, waste and debris resulting from Class I, II, and III activities.

**Clean room** means an uncontaminated room having facilities for the storage of employees' street clothing and uncontaminated materials and equipment.

**Closely resemble** means that the major workplace conditions which have contributed to the levels of historic asbestos exposure, are no more protective than conditions of the current workplace.

**Competent person** means, in addition to the definition in WAC 296-62-07728, one who is capable of identifying existing asbestos, hazards in the workplace and selecting the

appropriate control strategy for asbestos exposure, who has the authority to take prompt corrective measures to eliminate them as specified in WAC 296-62-07728. The competent person shall be certified as an asbestos supervisor in compliance with WAC 296-65-030(3) and 296-65-012 for Class I and Class II work, and for Class III and Class IV work involving 3 square feet or 3 linear feet or more of asbestos-containing material. For Class III and Class IV work, involving less than 3 square feet or 3 linear feet, the competent person shall be trained in an operations and maintenance (O&M) course which meets the criteria of EPA (40 CFR 763.92(a)(2)).

**Critical barrier** means one or more layers of plastic sealed over all openings into a work area or any other similarly placed physical barrier sufficient to prevent airborne asbestos in a work area from migrating to an adjacent area.

**Decontamination area** means an enclosed area adjacent and connected to the regulated area and consisting of an equipment room, shower area, and clean room, which is used for the decontamination of workers, materials, and equipment contaminated with asbestos.

**Demolition** means the wrecking or taking out of any load-supporting structural member and any related razing, removing, or stripping of asbestos products. Where feasible, asbestos-containing materials shall be removed from all structures prior to the commencement of any demolition activity as per WAC 296-155-775(9).

**Department** means the department of labor and industries.

**Director** means the director of the department of labor and industries or his/her authorized representative.

**Director of NIOSH** means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health and Human Services, or designee.

**Disturb or disturbance** ((means)) refers to activities that disrupt the matrix of ACM or PACM, crumble or pulverize ACM or PACM, or generate visible debris from ACM or PACM. This term includes activities that disrupt the matrix of ACM or PACM, render ACM or PACM friable, or generate visible debris. Disturbance includes cutting away small amounts of ACM or PACM, no greater than the amount ((which)) that can be contained in one standard size glove bag or waste bag in order to access a building or vessel component. In no event shall the amount of ACM or PACM so disturbed exceed that which can be contained in one glove bag or waste bag which shall not exceed 60 inches in length and width.

**Employee exposure** means that exposure to airborne asbestos that would occur if the employee were not using respiratory protective equipment.

**Equipment room (change room)** means a contaminated room located within the decontamination area that is supplied with impermeable bags or containers for the disposal of contaminated protective clothing and equipment.

**Fiber** means a particulate form of asbestos, five micrometers or longer, with a length-to-diameter ratio of at least three to one.

**Glove bag** means not more than a 60 x 60 inch impervious plastic bag-like enclosure affixed around an asbestos-containing material, with glove-like appendages through which material and tools may be handled.

**High-efficiency particulate air (HEPA) filter** means a filter capable of trapping and retaining at least 99.97 percent of all monodispersed particles of 0.3 micrometers mean aerodynamic diameter or larger.

**Homogeneous area** means an area of surfacing material or thermal system insulation that is uniform in color and texture.

**Industrial hygienist** means a professional qualified by education, training, and experience to anticipate, recognize, evaluate and develop controls for occupational health hazards.

**Intact** means that the ACM has not crumbled, been pulverized, or otherwise deteriorated so that the asbestos is no longer likely to be bound with its matrix. Friable ACM that is disturbed, as defined in this part, is presumed to be no longer intact.

**Modification** for the purpose of WAC 296-62-07712 means a changed or altered procedure, material or component of a control system, which replaces a procedure, material or component of a required system. Omitting a procedure or component, or reducing or diminishing the stringency or strength of a material or component of the control system is not a "modification" for the purposes of WAC 296-62-07712.

**Negative initial exposure assessment** means a demonstration by the employer (which complies with the criteria in WAC 296-62-07709) that employee exposure during an operation is expected to be consistently below the PELs.

**PACM** means "presumed asbestos-containing material."

**Presumed asbestos-containing material** means thermal system insulation and surfacing material found in buildings, vessels, and vessel sections constructed no later than 1980. The designation of a material as "PACM" may be rebutted pursuant to WAC 296-62-07721.

**Project designer** means a person who has successfully completed the training requirements for an abatement project designer established by 40 U.S.C. 763.90(g).

**Regulated area** means an area established by the employer to demarcate areas where Class I, II, and III asbestos work is conducted, and any adjoining area where debris and waste from such asbestos work accumulate; and a work area within which airborne concentrations of asbestos, exceed or can reasonably be expected to exceed the permissible exposure limit. Requirements for regulated areas are set out in WAC 296-62-07711.

**Removal** means all operations where ACM and/or PACM is taken out or stripped from structures or substrates, and includes demolition operations.

**Renovation** means the modifying of any existing vessel, vessel section, structure, or portion thereof.

**Repair** means overhauling, rebuilding, reconstructing, or reconditioning of vessels, vessel sections, structures or substrates, including encapsulation or other repair of ACM or PACM attached to vessels, vessel sections, structures or substrates.

**Surfacing material** means material that is sprayed, troweled-on or otherwise applied to surfaces (such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials on surfaces for acoustical, fireproofing, and other purposes).

**Surfacing ACM** means surfacing material which contains more than 1% asbestos.

**Thermal system insulation (TSI)** means ACM applied to pipes, fittings, boilers, breaching, tanks, ducts, or other structural components to prevent heat loss or gain.

**Thermal system insulation ACM** is thermal system insulation which contains more than 1% asbestos.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07709 Exposure assessment and monitoring.** (1) General monitoring criteria.

(a) Each employer who has a workplace or work operation where exposure monitoring is required under this (~~section~~) part must perform monitoring to determine accurately the airborne concentrations of asbestos to which employees may be exposed.

(b) Determinations of employee exposure (~~shall~~) must be made from breathing zone air samples that are representative of the eight-hour TWA and thirty minute short-term exposures of each employee.

(c) Representative eight-hour TWA employee exposures (~~shall~~) must be determined on the basis of one or more samples representing full-shift exposure for each shift for each employee in each job classification in each work area.

(d) Representative thirty minute short-term employee exposures (~~shall~~) must be determined on the basis of one or more samples representing thirty minute exposures associated with operations that are most likely to produce exposures above the excursion limit for each shift for each job classification in each work area.

(2) Exposure monitoring requirements for all occupational exposures to asbestos in all industries covered by the Washington Industrial Safety and Health Act except construction work, as defined in WAC 296-155-012, and except ship repairing, shipbuilding and shipbreaking employments and related employments as defined in WAC 296-304-01001.

(a) Initial monitoring.

(i) Each employer who has a workplace or work operation covered by this standard, except as provided for in (a)(ii) and (iii) of this subsection, (~~shall~~) must perform initial monitoring of employees who are, or may reasonably be expected to be exposed to airborne concentrations at or above the TWA permissible exposure limit and/or excursion limit. The initial monitoring (~~shall~~) must be at the initiation of each asbestos job to accurately determine the airborne concentration of asbestos to which employees may be exposed.

(ii) Where the employer or his/her representative has monitored after March 31, 1992, for the TWA permissible exposure limit and/or excursion limit, and the monitoring satisfies all other requirements of this section, and the monitoring data was obtained during work operations conducted under workplace conditions closely resembling the pro-

cesses, type of material including percentage of asbestos, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the employer may rely on such earlier monitoring results to satisfy the requirements of (a)(i) of this subsection.

(iii) Where the employer has relied upon objective data that demonstrates that asbestos is not capable of being released in airborne concentrations at or above the TWA permissible exposure limit and/or excursion limit under those work conditions of processing, use, or handling expected to have the greatest potential for releasing asbestos, then no initial monitoring is required.

(b) Monitoring frequency (periodic monitoring) and patterns. After the initial determinations required by subsection (2)(a)(i) of this section, samples ~~((shall))~~ must be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. ~~((In no case shall))~~ Sampling must not be at intervals greater than six months for employees whose exposures may reasonably be foreseen to exceed the TWA permissible exposure limit and/or excursion limit.

(c) Daily monitoring within regulated areas: The employer ~~((shall))~~ must conduct daily monitoring that is representative of the exposure of each employee who is assigned to work within a regulated area. Exception: When all employees within a regulated area are equipped with full facepiece supplied-air respirators operated in the pressure-demand mode equipped with either an auxiliary positive pressure self-contained breathing apparatus or a HEPA filter, the employer may dispense with the daily monitoring required by this subsection.

(d) Changes in monitoring frequency. If either the initial or the periodic monitoring required by subsection (2)(a) and (b) of this section statistically indicates that employee exposures are below the TWA permissible exposure limit and/or excursion limit, the employer may discontinue the monitoring for those employees whose exposures are represented by such monitoring.

(e) Additional monitoring. Notwithstanding the provisions of subsection (2)(a)(ii) and (c) of this section, the employer ~~((shall))~~ must institute the exposure monitoring required under subsection (2)(a)(i) and (ii) of this section whenever there has been a change in the production, process, control equipment, personnel, or work practices that may result in new or additional exposures above the TWA permissible exposure limit and/or excursion limit, or when the employer has any reason to suspect that a change may result in new or additional exposures above the TWA permissible exposure limit and/or excursion limit.

(3) Exposure assessment monitoring requirements for all construction work as defined in WAC 296-155-012 and for all ship repairing, shipbuilding and shipbreaking employments and related employments as defined in WAC 296-304-01001.

(a) Initial exposure assessment.

(i) Each employer who has a workplace or work operation covered by this standard ~~((shall))~~ must ensure that a "competent person" conducts an exposure assessment immediately before or at the initiation of the operation to ascertain expected exposures during that operation or workplace. The

assessment must be completed in time to comply with the requirements which are triggered by exposure data or lack of a "negative exposure assessment," and to provide information necessary to assure that all control systems planned are appropriate for that operation and will work properly.

(ii) Basis of initial exposure assessment: Unless a negative exposure assessment has been made ~~((pursuant))~~ according to (b) of this subsection, the initial exposure assessment ~~((shall))~~ must, if feasible, be based on monitoring conducted ~~((pursuant))~~ according to (b) of this subsection. The assessment ~~((shall))~~ must take into consideration both the monitoring results and all observations, information or calculations which indicate employee exposure to asbestos, including any previous monitoring conducted in the workplace, or of the operations of the employer which indicate the levels of airborne asbestos likely to be encountered on the job. For Class I asbestos work, until the employer conducts exposure monitoring and documents that employees on that job will not be exposed in excess of the PELs, or otherwise makes a negative exposure assessment ~~((pursuant))~~ according to (b) of this subsection, the employer ~~((shall))~~ must presume that employees are exposed in excess of the TWA and excursion limit.

(b) Negative exposure assessment: For any one specific asbestos job which will be performed by employees who have been trained in compliance with the standard, the employer may demonstrate that employee exposures will be below the PELs by data which conform to the following criteria:

(i) Objective data demonstrating that the products or material containing asbestos minerals or the activity involving such product or material cannot release airborne fibers in concentrations exceeding the TWA and excursion limit under those work conditions having the greatest potential for releasing asbestos; or

(ii) Where the employer has monitored prior asbestos jobs for the PEL and the excursion limit within 12 months of the current or projected job, the monitoring and analysis were performed in compliance with the asbestos standard in effect; and the data was obtained during work operations conducted under workplace conditions "closely resembling" the processes, type of material including percentage of asbestos, control methods, work practices, and environmental conditions used and prevailing in the employer's current operations, the operations were conducted by employees whose training and experience are no more extensive than that of employees performing the current job, and these data show that under the conditions prevailing and which will prevail in the current workplace there is a high degree of certainty that employee exposures will not exceed the TWA or excursion limit; or

(iii) The results of initial exposure monitoring of the current job made from breathing zone samples that are representative of the 8-hour TWA and 30-minute short-term exposures of each employee covering operations which are most likely during the performance of the entire asbestos job to result in exposures over the PELs ~~((; or~~

~~((iv) Monitoring outside negative pressure enclosures: The employer shall conduct representative area monitoring of the airborne fiber levels at least every other day at the HEPA machine exhaust and entrance to the decontamination area)).~~

## (c) Periodic monitoring.

(i) Class I and Class II operations. The employer ((~~shall~~)) must conduct daily monitoring that is representative of the exposure of each employee who is assigned to work within a regulated area who is performing Class I or II work, unless the employer ((~~pursuant~~)) according to (b) of this subsection, has made a negative exposure assessment for the entire operation.

(ii) All operations under the standard other than Class I and II operations. The employer ((~~shall~~)) must conduct periodic monitoring of all work where exposures are expected to exceed a PEL, at intervals sufficient to document the validity of the exposure prediction.

(iii) Exception. When all employees required to be monitored daily are equipped with supplied-air respirators operated in the pressure demand mode, the employer may dispense with the daily monitoring required by subsection (2)(c) of this section. However, employees performing Class I work using a control method which is not listed in WAC 296-62-07712 ((~~of this section~~)) or using a modification of a listed control method, ((~~shall~~)) must continue to be monitored daily even if they are equipped with supplied-air respirators.

(d) Termination of monitoring. If the periodic monitoring required by (c) of this subsection reveals that employee exposures, as indicated by statistically reliable measurements, are below the permissible exposure limit and excursion limit the employer may discontinue monitoring for those employees whose exposures are represented by such monitoring.

(e) Monitoring outside negative-pressure enclosures: The employer must conduct representative area monitoring of the airborne fiber levels at least every other day at the HEPA machine exhaust and entrance to the decontamination area.

(f) Additional monitoring. Notwithstanding the provisions of (b), (c), and (d) of this subsection, the employer ((~~shall~~)) must institute the exposure monitoring required under (c) of this subsection whenever there has been a change in process, control equipment, personnel or work practices that may result in new or additional exposures above the permissible exposure limit and/or excursion limit or when the employer has any reason to suspect that a change may result in new or additional exposures above the permissible exposure limit and/or excursion limit. Such additional monitoring is required regardless of whether a "negative exposure assessment" was previously produced for a specific job.

~~((f) Prior to the start of the removal, demolition, or renovation project, representative area monitoring shall be conducted for later use))~~ (g) Preabatement monitoring. Prior to the start of asbestos work, representative area air monitoring must be conducted for comparison to clearance monitoring as required by WAC 296-62-07709 (3)(g). Preabatement air monitoring is not required for outdoor work (see WAC 296-62-07712 (5)(c)).

(h) Clearance monitoring. Representative area air monitoring must be taken at the completion of the asbestos work. Air sample results must be obtained before removal or reoccupancy of the regulated area. Clearance air monitoring is not required for outdoor asbestos work.

## (4) Method of monitoring.

(a) All samples taken to satisfy the employee exposure monitoring requirements of this section ((~~shall~~)) must be personal samples collected following the procedures specified in WAC 296-62-07735, Appendix A.

(b) Monitoring ((~~shall~~)) must be performed by persons having a thorough understanding of monitoring principles and procedures and who can demonstrate proficiency in sampling techniques.

(c) All samples taken to satisfy the monitoring requirements of this section ((~~shall~~)) must be evaluated using the WISHA reference method specified in WAC 296-62-07735, Appendix A, or an equivalent counting method recognized by the department.

(d) If an equivalent method to the WISHA reference method is used, the employer ((~~shall~~)) must ensure that the method meets the following criteria:

(i) Replicate exposure data used to establish equivalency are collected in side-by-side field and laboratory comparisons; and

(ii) The comparison indicates that ninety percent of the samples collected in the range 0.5 to 2.0 times the permissible limit have an accuracy range of plus or minus twenty-five percent of the WISHA reference method results at a ninety-five percent confidence level as demonstrated by a statistically valid protocol; and

(iii) The equivalent method is documented and the results of the comparison testing are maintained.

(e) To satisfy the monitoring requirements of this section, employers must use the results of monitoring analysis performed by laboratories which have instituted quality assurance programs that include the elements as prescribed in WAC 296-62-07735, Appendix A.

## (5) Employee notification of monitoring results.

(a) The employer ((~~shall~~)) must, as soon as possible but no later than within fifteen working days after the receipt of the results of any monitoring performed under the standard, notify the affected employees of these results in writing either individually or by posting of results in an appropriate location that is accessible to affected employees.

(b) The written notification required by (a) of this subsection ((~~shall~~)) must contain the corrective action being taken by the employer to reduce employee exposure to or below the TWA and/or excursion exposure limits, wherever monitoring results indicated that the TWA and/or excursion exposure limits had been exceeded.

## (6) Observation of monitoring.

(a) The employer ((~~shall~~)) must provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to asbestos conducted in accordance with this section.

(b) When observation of the monitoring of employee exposure to asbestos requires entry into an area where the use of protective clothing or equipment is required, the observer ((~~shall~~)) must be provided with and be required to use such clothing and equipment and shall comply with all other applicable safety and health procedures.

**AMENDATORY SECTION** (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

**WAC 296-62-07712 Requirements for asbestos activities in construction and shipyard work.** (1) Methods of compliance, the following engineering controls and work practices of this section ~~((shall))~~ **must** be used for construction work defined in WAC 296-155-012 and for all ship repair defined in WAC 296-304-010.

(2) Engineering controls and work practices for all operations covered by this section. The employer ~~((shall))~~ **must** use the following engineering controls and work practices in all operations covered by this section, regardless of the levels of exposure:

(a) Vacuum cleaners equipped with HEPA filters to collect all debris and dust containing ACM and PACM, except as provided in subsection (10)(b) of this section in the case of roofing material.

(b) Wet methods, or wetting agents, to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup, except where employers demonstrate that the use of wet methods is infeasible due to, for example, the creation of electrical hazards, equipment malfunction, and, in roofing, except as provided in subsection (10)(b) of this section.

(c) Asbestos ~~((shall))~~ **must** be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet saturated state to prevent the emission of airborne fibers unless the usefulness of the product would be diminished thereby.

(d) Prompt cleanup and disposal of wastes and debris contaminated with asbestos in leak-tight containers except in roofing operations, where the procedures specified in this section apply.

(3) In addition to the requirements of subsection (2) of this section, the employer ~~((shall))~~ **must** use the following control methods to achieve compliance with the TWA permissible exposure limit and excursion limit prescribed by WAC 296-62-07705:

(a) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(b) Enclosure or isolation of processes producing asbestos dust;

(c) Ventilation of the regulated area to move contaminated air away from the breathing zone of employees and toward a filtration or collection device equipped with a HEPA filter;

(d) Use of other work practices and engineering controls that the department can show to be feasible;

(e) Wherever the feasible engineering and work practice controls described above are not sufficient to reduce employee exposure to or below the permissible exposure limit and/or excursion limit prescribed in WAC 296-62-07705, the employer ~~((shall))~~ **must** use them to reduce employee exposure to the lowest levels attainable by these controls and ~~((shall))~~ **must** supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-07715.

(4) Prohibitions. The following work practices and engineering controls ~~((shall))~~ **must** not be used for work related to asbestos or for work which disturbs ACM or PACM, regard-

less of measured levels of asbestos exposure or the results of initial exposure assessments:

(a) High-speed abrasive disc saws that are not equipped with point or cut ventilator or enclosures with HEPA filtered exhaust air;

(b) Compressed air used to remove asbestos, or materials containing asbestos, unless the compressed air is used in conjunction with an enclosed ventilation system designed to capture the dust cloud created by the compressed air;

(c) Dry sweeping, shoveling or other dry cleanup of dust and debris containing ACM and PACM;

(d) Employee rotation as a means of reducing employee exposure to asbestos.

(5) Cleanup.

(a) After completion of asbestos work (removal, demolition, and renovation operations), all surfaces in and around the work area ~~((shall))~~ **must** be cleared of any asbestos debris.

~~(b) ((Look-down. Where asbestos has been removed, encapsulant shall be applied to ensure binding of remaining fibers.~~

~~(c) The employer shall demonstrate by monitoring that the airborne fiber concentration is below the permissible exposure limits; or, at or below the airborne fiber level existing prior to the start of the removal, demolition, or renovation project; whichever level is lower.) Encapsulant must be applied to all areas where asbestos has been removed to ensure binding of any remaining fibers.~~

(6) Class I requirements. The following engineering controls and work practices and procedures ~~((shall))~~ **must** be used:

(a) All Class I work, including the installation and operation of the control system ~~((shall))~~ **must** be supervised by a competent person as defined in WAC 296-62-07703;

(b) For all Class I jobs involving the removal of more than 25 linear or 10 square feet of thermal system insulation or surfacing material; for all other Class I jobs, where the employer cannot produce a negative exposure assessment ~~((pursuant))~~ **according** to WAC 296-62-07709(3), or where employees are working in areas adjacent to the ~~((regulation))~~ **regulated** area, while the Class I work is being performed, the employer ~~((shall))~~ **must** use one of the following methods to ensure that airborne asbestos does not migrate from the regulated area:

(i) Critical barriers ~~((shall))~~ **must** be placed over all the openings to the regulated area, except where activities are performed outdoors; or

(ii) The employer ~~((shall))~~ **must** use another barrier or isolation method which prevents the migration of airborne asbestos from the regulated area, as verified by perimeter area surveillance during each work shift at each boundary of the regulated area, showing no visible asbestos dust; and perimeter area monitoring showing that clearance levels contained in 40 CFR Part 763, Subpart E, of the EPA Asbestos in Schools Rule are met, or that perimeter area levels, measured by Phase Contrast Microscopy (PCM) are no more than background levels representing the same area before the asbestos work began. The results of such monitoring ~~((shall))~~ **must** be made known to the employer no later than 24 hours from the end of the work shift represented by such monitoring. Exception: For work completed outdoors where employees are not

working in areas adjacent to the regulated areas, (a) of this subsection is satisfied when the specific control methods in subsection (7) of this section are used;

(c) For all Class I jobs, HVAC systems ((shall)) must be isolated in the regulated area by sealing with a double layer of 6 mil plastic or the equivalent;

(d) For all Class I jobs, impermeable dropcloths shall be placed on surfaces beneath all removal activity;

(e) For all Class I jobs, all objects within the regulated area ((shall)) must be covered with impermeable dropcloths or plastic sheeting which is secured by duct tape or an equivalent;

(f) For all Class I jobs where the employer cannot produce a negative exposure assessment, or where exposure monitoring shows that a PEL is exceeded, the employer ((shall)) must ventilate the regulated area to move contaminated air away from the breathing zone of employees toward a HEPA filtration or collection device.

(7) Specific control methods for Class I work. In addition, Class I asbestos work ((shall)) must be performed using one or more of the following control methods ((pursuant)) according to the limitations stated below:

(a) Negative pressure enclosure (NPE) systems: NPE systems may be used where the configuration of the work area does not make the erection of the enclosure infeasible, with the following specifications and work practices:

(i) Specifications:

(A) The negative pressure enclosure (NPE) may be of any configuration;

(B) At least 4 air changes per hour ((shall)) must be maintained in the NPE;

(C) A minimum of -0.02 column inches of water pressure differential, relative to outside pressure, ((shall)) must be maintained within the NPE as evidenced by manometric measurements;

(D) The NPE ((shall)) must be kept under negative pressure throughout the period of its use; and

(E) Air movement ((shall)) must be directed away from employees performing asbestos work within the enclosure, and toward a HEPA filtration or collection device.

(ii) Work practices:

(A) Before beginning work within the enclosure and at the beginning of each shift, the NPE ((shall)) must be inspected for breaches and smoke-tested for leaks, and any leaks sealed.

(B) Electrical circuits in the enclosure ((shall)) must be deactivated, unless equipped with ground-fault circuit interrupters.

(b) Glove bag systems may be used to remove PACM and/or ACM from straight runs of piping and elbows and other connections with the following specifications and work practices:

(i) Specifications:

(A) Glove bags ((shall)) must be made of 6 mil thick plastic and ((shall)) must be seamless at the bottom.

(B) Glove bags used on elbows and other connections must be designed for that purpose and used without modifications.

(ii) Work practices:

(A) Each glove bag ((shall)) must be installed so that it completely covers the circumference of pipe or other structure where the work is to be done.

(B) Glove bags ((shall)) must be smoke-tested for leaks and any leaks sealed prior to use.

(C) Glove bags may be used only once and may not be moved.

(D) Glove bags ((shall)) must not be used on surfaces whose temperature exceeds 150°F.

(E) Prior to disposal, glove bags ((shall)) must be collapsed by removing air within them using a HEPA vacuum.

(F) Before beginning the operation, loose and friable material adjacent to the glove bag/box operation ((shall)) must be wrapped and sealed in two layers of six mil plastic or otherwise rendered intact.

(G) Where system uses attached waste bag, such bag ((shall)) must be connected to collection bag using hose or other material which ((shall)) must withstand pressure of ACM waste and water without losing its integrity.

(H) Sliding valve or other device ((shall)) must separate waste bag from hose to ensure no exposure when waste bag is disconnected.

(I) At least two persons ((shall)) must perform Class I glove bag removal operations.

(c) Negative pressure glove bag systems. Negative pressure glove bag systems may be used to remove ACM or PACM from piping.

(i) Specifications: In addition to specifications for glove bag systems above, negative pressure glove bag systems ((shall)) must attach HEPA vacuum systems or other devices to bag during removal.

(ii) Work practices:

(A) The employer ((shall)) must comply with the work practices for glove bag systems in this section.

(B) The HEPA vacuum cleaner or other device used during removal ((shall)) must run continually during the operation until it is completed at which time the bag ((shall)) must be collapsed prior to removal of the bag from the pipe.

(C) Where a separate waste bag is used along with a collection bag and discarded after one use, the collection bag may be reused if rinsed clean with amended water before reuse.

(d) Negative pressure glove box systems: Negative pressure glove boxes may be used to remove ACM or PACM from pipe runs with the following specifications and work practices:

(i) Specifications:

(A) Glove boxes ((shall)) must be constructed with rigid sides and made from metal or other material which can withstand the weight of the ACM and PACM and water used during removal.

(B) A negative pressure generator ((shall)) must be used to create negative pressure in the system.

(C) An air filtration unit ((shall)) must be attached to the box.

(D) The box ((shall)) must be fitted with gloved apertures.

(E) An aperture at the base of the box ((shall)) must serve as a bagging outlet for waste ACM and water.



(F) A back-up generator ((shall)) must be present on site.  
 (G) Waste bags ((shall)) must consist of 6 mil thick plastic double-bagged before they are filled or plastic thicker than 6 mil.

(ii) Work practices:

(A) At least two persons ((shall)) must perform the removal.

(B) The box ((shall)) must be smoke-tested for leaks and any leaks sealed prior to each use.

(C) Loose or damaged ACM adjacent to the box ((shall)) must be wrapped and sealed in two layers of 6 mil plastic prior to the job, or otherwise made intact prior to the job.

(D) A HEPA filtration system ((shall)) must be used to maintain pressure barrier in box.

(e) Water spray process system. A water spray process system may be used for removal of ACM and PACM from cold line piping if, employees carrying out such process have completed a 40-hour separate training course in its use, in addition to training required for employees performing Class I work. The system ((shall)) must meet the following specifications and shall be performed by employees using the following work practices:

(i) Specifications:

(A) Piping ((shall)) must be surrounded on 3 sides by rigid framing.

(B) A 360 degree water spray, delivered through nozzles supplied by a high pressure separate water line, ((shall)) must be formed around the piping.

(C) The spray ((shall)) must collide to form a fine aerosol which provides a liquid barrier between workers and the ACM and PACM.

(ii) Work practices:

(A) The system ((shall)) must be run for at least 10 minutes before removal begins.

(B) All removal ((shall)) must take place within the water barrier.

(C) The system ((shall)) must be operated by at least three persons, one of whom ((shall)) must not perform removal, but ((shall)) must check equipment, and ensure proper operation of the system.

(D) After removal, the ACM and PACM ((shall)) must be bagged while still inside the water barrier.

(f) A small walk-in enclosure which accommodates no more than two persons (mini-enclosure) may be used if the disturbance or removal can be completely contained by the enclosure with the following specifications and work practices:

(i) Specifications:

(A) The fabricated or job-made enclosure ((shall)) must be constructed of 6 mil plastic or equivalent.

(B) The enclosure ((shall)) must be placed under negative pressure by means of a HEPA filtered vacuum or similar ventilation unit.

(C) Change room. A small change room made of 6-mil-thick polyethylene plastic should be contiguous to the mini-enclosure, and is necessary to allow the worker to vacuum off his/her protective coveralls and remove them before leaving the work area. While inside the enclosure, the worker should wear ((Tyvek)) Tyvek disposable coveralls or equivalent and must use the appropriate HEPA-filtered dual cartridge respi-

ratory protection. The advantages of mini-enclosures are that they limit the spread of asbestos contamination, reduce the potential exposure of bystanders and other workers who may be working in adjacent areas, and are quick and easy to install. The disadvantage of mini-enclosures is that they may be too small to contain the equipment necessary to create a negative-pressure within the enclosure; however, the double layer of plastic sheeting will serve to restrict the release of asbestos fibers to the area outside the enclosure.

(ii) Work practices:

(A) Before use, the mini-enclosure ((shall)) must be inspected for leaks and smoke-tested to detect breaches, and any breaches sealed.

(B) Before reuse, the interior ((shall)) must be completely washed with amended water and HEPA-vacuumed.

(C) During use, air movement ((shall)) must be directed away from the employee's breathing zone within the mini-enclosure.

(8) Alternative control methods for Class I work. Class I work may be performed using a control method which is not referenced in subsection (2)(a) through (3)(e) of this section, or which modifies a control method referenced in subsection (2)(a) through (3)(e) of this section, if the following provisions are complied with:

(a) The control method shall enclose, contain or isolate the processes or source of airborne asbestos dust, (~~or otherwise capture or redirect such dust~~) before it enters the breathing zone of employees.

(b) A certified industrial hygienist or licensed professional engineer who is also qualified as a project designer as defined in WAC 296-62-07703, shall evaluate the work area, the projected work practices and the engineering controls and shall certify in writing that the planned control method is adequate to reduce direct and indirect employee exposure to below the PELs under worst-case conditions of use, and that the planned control method will prevent asbestos contamination outside the regulated area, as measured by clearance sampling which meets the requirements of EPA's Asbestos in Schools rule issued under AHERA, or perimeter monitoring which meets the criteria in subsection (6)(b)(ii) of this section. Where the TSI or surfacing material to be removed is 25 linear or 10 square feet or less, the evaluation required in subsection (8)(b) of this section may be performed by a competent person.

(c) Before work which involves the removal of more than 25 linear or 10 square feet of thermal system insulation or surfacing material is begun using an alternative method which has been the subject of subsection (2)(a) through (3)(e) of this section required evaluation and certification, the employer shall send a copy of such evaluation and certification to the Department of Labor and Industries, Asbestos Certification Program, P.O. Box 44614, Olympia, Washington 98504-4614. The submission shall not constitute approval by WISHA.

(d) The evaluation of employee exposure required in WAC 296-62-07712(8) must include and be based on sampling and analytical data representing employee exposure during the use of such method under the worst-case conditions and by employees whose training and experiences are equivalent to employees who are to perform the current job.

(9) Work practices and engineering controls for Class II work.

(a) All Class II work ~~((shall))~~ must be supervised by a competent person as defined in WAC 296-62-07703.

(b) For all indoor Class II jobs, where the employer has not produced a negative exposure assessment ~~((pursuant))~~ according to WAC 296-62-07709(3), or where during the job, changed conditions indicate there may be exposure above the PEL or where the employer does not remove the ACM in a substantially intact state, the employer ~~((shall))~~ must use one of the following methods to ensure that airborne asbestos does not migrate from the regulated area:

(i) Critical barriers ~~((shall))~~ must be placed over all openings to the regulated area; or

(ii) The employer ~~((shall))~~ must use another barrier or isolation method which prevents the migration of airborne asbestos from the regulated area, as verified by perimeter area monitoring or clearance monitoring which meets the criteria set out in subsection (6)(b)(ii) of this section~~((or~~

~~((iii) Impermeable dropcloths shall be placed on surfaces beneath all removal activity)).~~

(c) ~~((Reserved))~~ Impermeable dropcloths must be placed on surfaces beneath all removal activity.

(d) All Class II asbestos work ~~((shall))~~ must be performed using the work practices and requirements set out above in subsection ~~((9)(a) and (b))~~ (2) of this section.

(10) Additional controls for Class II work. Class II asbestos work ~~((shall))~~ must also be performed by complying with the work practices and controls designated for each type of asbestos work to be performed, set out in this paragraph. Where more than one control method may be used for a type of asbestos work, the employer may choose one or a combination of designated control methods. Class II work also may be performed using a method allowed for Class I work, except that glove bags and glove boxes are allowed if they fully enclose the Class II material to be removed.

(a) For removing vinyl and asphalt flooring materials which contain ACM or for which in buildings constructed no later than 1980, the employer has not verified the absence of ACM ~~((pursuant))~~ according to WAC 296-62-07712 (10)(a)(ix). The employer ~~((shall))~~ must ensure that employees comply with the following work practices and that employees are trained in these practices ~~((pursuant))~~ according to WAC 296-62-07722.

(i) Flooring or its backing ~~((shall))~~ must not be sanded.

(ii) Vacuums equipped with HEPA filter, disposable dust bag, and metal floor tool (no brush) ~~((shall))~~ must be used to clean floors.

(iii) Resilient sheeting ~~((shall))~~ must be removed by cutting with wetting of the snip point and wetting during delamination. Rip-up of resilient sheet floor material is prohibited.

(iv) All scraping of residual adhesive and/or backing ~~((shall))~~ must be performed using wet methods.

(v) Dry sweeping is prohibited.

(vi) Mechanical chipping is prohibited unless performed in a negative pressure enclosure which meets the requirements of subsection (7)(a) of this section.

(vii) Tiles ~~((shall))~~ must be removed intact, unless the employer demonstrates that intact removal is not possible.

(viii) When tiles are heated and can be removed intact, wetting may be omitted.

(ix) Resilient flooring material including associated mastic and backing ~~((shall))~~ must be assumed to be asbestos-containing unless an industrial hygienist determines that it is asbestos-free using recognized analytical techniques.

(b) For removing roofing material which contains ACM the employer ~~((shall))~~ must ensure that the following work practices are followed:

(i) Roofing material ~~((shall))~~ must be removed in an intact state to the extent feasible.

(ii) Wet methods ~~((shall))~~ must be used to remove roofing materials that are not intact, or that will be rendered not intact during removal, unless such wet methods are not feasible or will create safety hazards.

(iii) Cutting machines ~~((shall))~~ must be continuously misted during use, unless a competent person determines that misting substantially decreases worker safety.

(iv) When removing built-up roofs with asbestos-containing roofing felts and an aggregate surface using a power roof cutter, all dust resulting from the cutting operation ~~((shall))~~ must be collected by a HEPA dust collector, or ~~((shall))~~ must be HEPA vacuumed by vacuuming along the cut line. When removing built-up roofs with asbestos-containing roofing felts and a smooth surface using a power roof cutter, the dust resulting from the cutting operation ~~((shall))~~ must be collected either by a HEPA dust collector or HEPA vacuuming along the cut line, or by gently sweeping and then carefully and completely wiping up the still wet dust and debris left along the cut line. The dust and debris ~~((shall))~~ must be immediately bagged or placed in covered containers.

(v) Asbestos-containing material that has been removed from a roof ~~((shall))~~ must not be dropped or thrown to the ground. Unless the material is carried or passed to the ground by hand, it ~~((shall))~~ must be lowered to the ground via covered, dust-tight chute, crane or hoist:

(A) Any ACM that is not intact ~~((shall))~~ must be lowered to the ground as soon as is practicable, but in any event no later than the end of the work shift. While the material remains on the roof it ~~((shall))~~ must either be kept wet, placed in an impermeable waste bag, or wrapped in plastic sheeting.

(B) Intact ACM ~~((shall))~~ must be lowered to the ground as soon as is practicable, but in any event no later than the end of the work shift.

(vi) Upon being lowered, unwrapped material ~~((shall))~~ must be transferred to a closed receptacle in such manner so as to preclude the dispersion of dust.

(vii) Roof level heating and ventilation air intake sources ~~((shall))~~ must be isolated or the ventilation system ~~((shall))~~ must be shut down.

(viii) Notwithstanding any other provision of this section, removal or repair of sections of intact roofing less than 25 square feet in area does not require use of wet methods or HEPA vacuuming as long as manual methods which do not render the material nonintact are used to remove the material and no visible dust is created by the removal method used. In determining whether a job involves less than 25 square feet, the employer ~~((shall))~~ must include all removal and repair work performed on the same roof on the same day.

(c) When removing cementitious asbestos-containing siding and shingles or transite panels containing ACM on building exteriors (other than roofs, where subsection (10)(b) of this section applies) the employer ((shall)) must ensure that the following work practices are followed:

(i) Cutting, abrading or breaking siding, shingles, or transite panels, ((shall)) must be prohibited unless the employer can demonstrate that methods less likely to result in asbestos fiber release cannot be used.

(ii) Each panel or shingle ((shall)) must be sprayed with amended water prior to removal.

(iii) Unwrapped or unbagged panels or shingles ((shall)) must be immediately lowered to the ground via covered dust-tight chute, crane or hoist, or placed in an impervious waste bag or wrapped in plastic sheeting and lowered to the ground no later than the end of the work shift.

(iv) Nails ((shall)) must be cut with flat, sharp instruments.

(d) When removing gaskets containing ACM, the employer ((shall)) must ensure that the following work practices are followed:

(i) If a gasket is visibly deteriorated and unlikely to be removed intact, removal ((shall)) must be undertaken within a glove bag as described in subsection (7)(b) of this section.

(ii) (Reserved.)

(iii) The gasket ((shall)) must be immediately placed in a disposal container.

(iv) Any scraping to remove residue must be performed wet.

(e) When performing any other Class II removal of asbestos-containing material for which specific controls have not been listed in subsection (10) of this section, the employer ((shall)) must ensure that the following work practices are complied with:

(i) The material ((shall)) must be thoroughly wetted with amended water prior to and during its removal.

(ii) The material ((shall)) must be removed in an intact state unless the employer demonstrates that intact removal is not possible.

(iii) Cutting, abrading or breaking the material ((shall)) must be prohibited unless the employer can demonstrate that methods less likely to result in asbestos fiber release are not feasible.

(iv) Asbestos-containing material removed, ((shall)) must be immediately bagged or wrapped, or kept wet until transferred to a closed receptacle, no later than the end of the work shift.

(f) Alternative work practices and controls. Instead of the work practices and controls listed in subsection (10) of this section, the employer may use different or modified engineering and work practice controls if the following provisions are complied with:

(i) The employer ((shall)) must demonstrate by data representing employee exposure during the use of such method under conditions which closely resemble the conditions under which the method is to be used, that employee exposure will not exceed the PELs under any anticipated circumstances.

(ii) A competent person ((shall)) must evaluate the work area, the projected work practices and the engineering con-

trols, and ((shall)) must certify in writing, that the different or modified controls are adequate to reduce direct and indirect employee exposure to below the PELs under all expected conditions of use and that the method meets the requirements of this standard. The evaluation ((shall)) must include and be based on data representing employee exposure during the use of such method under conditions which closely resemble the conditions under which the method is to be used for the current job, and by employees whose training and experience are equivalent to employees who are to perform the current job.

(11) Work practices and engineering controls for Class III asbestos work. Class III asbestos work ((shall)) must be conducted using engineering and work practice controls which minimize the exposure to employees performing the asbestos work and to bystander employees.

(a) The work ((shall)) must be performed using wet methods.

(b) To the extent feasible, the work ((shall)) must be performed using local exhaust ventilation.

(c) Where the disturbance involves drilling, cutting, abrading, sanding, chipping, braking, or sawing of thermal system insulation or surfacing material, the employer ((shall)) must use impermeable dropcloths, and ((shall)) must isolate the operation using mini-enclosures or glove bag systems ((pursuant)) according to subsection (7) of this section or another isolation method.

(d) Where the employer does not produce a "negative exposure assessment" for a job, or where monitoring results show the PEL has been exceeded, the employer ((shall)) must contain the area using impermeable dropcloths and plastic barriers or their equivalent, or ((shall)) must isolate the operation using a control system listed in and in compliance with subsection (7) of this section.

(e) Employees performing Class III jobs, which involve the disturbance of thermal system insulation or surfacing material, or where the employer does not produce a "negative exposure assessment" or where monitoring results show a PEL has been exceeded, ((shall)) must wear respirators which are selected, used and fitted ((pursuant)) according to provisions of WAC 296-62-07715.

(12) Class IV asbestos work. Class IV asbestos jobs ((shall)) must be conducted by employees trained ((pursuant)) according to the asbestos awareness training program set out in WAC 296-62-07722. In addition, all Class IV jobs ((shall)) must be conducted in conformity with the requirements set out in this section, mandating wet methods, HEPA vacuums, and prompt clean up of debris containing ACM and PACM.

(a) Employees cleaning up debris and waste in a regulated area where respirators are required ((shall)) must wear respirators which are selected, used and fitted ((pursuant)) according to provisions of WAC 296-62-07715.

(b) Employers of employees who clean up waste and debris in, and employers in control of, areas where friable thermal system insulation or surfacing material is accessible, ((shall)) must assume that such waste and debris contain asbestos.

(13) Alternative methods of compliance for installation, removal, repair, and maintenance of certain roofing and pipeline coating materials. Notwithstanding any other provision

of this section, an employer who complies with all provisions of subsection (10)(a) and (b) of this section when installing, removing, repairing, or maintaining intact pipeline asphaltic wrap, or roof (~~(elements, mastics, coatings, or)~~) flashings which contain asbestos fibers encapsulated or coated by bituminous or resinous compounds (~~(shall)~~ will be deemed to be in compliance with this section. If an employer does not comply with all provisions of this subsection (13), or if during the course of the job the material does not remain intact, the provisions of subsection (10) of this section apply instead of this subsection (13).

(a) Before work begins and as needed during the job, a competent person who is capable of identifying asbestos hazards in the workplace and selecting the appropriate control strategy for asbestos exposure, and who has the authority to take prompt corrective measures to eliminate such hazards, (~~(shall)~~ must conduct an inspection of the worksite and determine that the roofing material is intact and will likely remain intact.

(b) All employees performing work covered by this subsection (13) (~~(shall)~~ must be trained in a training program that meets the requirements of WAC 296-62-07722.

(c) The material (~~(shall)~~ must not be sanded, abraded, or ground. When manual methods (which do not render the material nonintact shall be) are used, materials must stay intact.

(d) Material that has been removed from a roof (~~(shall)~~ must not be dropped or thrown to the ground. Unless the material is carried or passed to the ground by hand, it (~~(shall)~~ must be lowered to the ground via covered, dust-tight chute, crane or hoist. All such material (~~(shall)~~ must be removed from the roof as soon as is practicable, but in any event no later than the end of the work shift.

(e) Where roofing products which have been labeled as containing asbestos pursuant to WAC 296-62-07721, installed on nonresidential roofs during operations covered by this subsection (13), the employer (~~(shall)~~ must notify the building owner of the presence and location of such materials no later than the end of the job.

(f) All removal or disturbance of pipeline asphaltic wrap (~~(shall)~~ must be performed using wet methods.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07713 Methods of compliance for asbestos activities in general industry.** (1) Engineering controls and work practices.

(a) The employer (~~(shall)~~ must institute engineering controls and work practices to reduce and maintain employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, except to the extent that such controls are not feasible. Engineering controls and work practices include but are not limited to the following:

(i) Local exhaust ventilation equipped with HEPA filter dust collection systems;

(ii) Vacuum cleaners equipped with HEPA filters;

(iii) Enclosure or isolation of processes producing asbestos dust;

(iv) Use of wet methods, wetting agents, or removal encapsulants to control employee exposures during asbestos handling, mixing, removal, cutting, application, and cleanup;

(v) Prompt disposal of wastes contaminated with asbestos in leak-tight containers; or

(vi) Use of work practices or other engineering controls that the director can show to be feasible.

(b) Wherever the feasible engineering controls and work practices that can be instituted are not sufficient to reduce employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, the employer (~~(shall)~~ must use them to reduce employee exposure to the lowest levels achievable by these controls and (~~(shall)~~ must supplement them by the use of respiratory protection that complies with the requirements of WAC 296-62-07715.

(c) For the following operations, wherever feasible engineering controls and work practices that can be instituted are not sufficient to reduce the employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705, the employer (~~(shall)~~ must use them to reduce employee exposure to or below 0.5 fiber per cubic centimeter of air (as an eight-hour time-weighted average) or 2.5 fibers per cubic centimeter of air for 30 minutes (short-term exposure), and (~~(shall)~~ must supplement them by the use of any combination of respiratory protection that complies with the requirements of WAC 296-62-07715, work practices and feasible engineering controls that will reduce employee exposure to or below the permissible exposure limits prescribed in WAC 296-62-07705: Coupling cutoff in primary asbestos cement pipe manufacturing; sanding in primary and secondary asbestos cement sheet manufacturing; grinding in primary and secondary friction product manufacturing; carding and spinning in dry textile processes; and grinding and sanding in primary plastics manufacturing.

(d) Local exhaust ventilation. Local exhaust HEPA ventilation and dust collection systems (~~(shall)~~ must be designed, constructed, installed, and maintained in accordance with good practices such as those found in the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2-1979.

(e) Particular tools. All hand-operated and power-operated tools which would produce or release fibers of asbestos so as to expose employees to levels in excess of the exposure limits prescribed in WAC 296-62-07705, such as, but not limited to, saws, scorers, abrasive wheels, and drills, (~~(shall)~~ must be provided with local exhaust ventilation systems which comply with (d) of this subsection. High-speed abrasive disc saws that are not equipped with appropriate engineering controls (~~(shall)~~ must not be used for work related to asbestos.

(f) Wet methods. Asbestos (~~(shall)~~ must be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet saturated state to prevent the emission of airborne fibers unless the usefulness of the product would be diminished thereby.

(g) Particular products and operations. (~~(No)~~ When asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos (~~(shall be)~~ is removed from bags, cartons, or other containers in which they are shipped, (~~(without being)~~ it must be either wetted, enclosed, or venti-

lated so as to prevent effectively the release of airborne fibers of asbestos.

(h) Compressed air. Compressed air ~~((shall))~~ **must** not be used to remove asbestos or materials containing asbestos unless the compressed air is used in conjunction with an enclosed ventilation system designed to effectively capture the dust cloud created by the compressed air.

(2) Clean-up.

(a) After completion of asbestos ~~((removal, demolition, and renovation operations, all surfaces in and around the work area shall be cleared of any))~~ **work, all surfaces in and around the work area must be cleared of** asbestos debris.

(b) ~~((Lock-down. Where asbestos has been removed, encapsulant shall be applied to ensure binding of remaining fibers.))~~ **Encapsulant must be applied to all areas where asbestos has been removed to ensure binding of any remaining fibers.**

(c) The employer ~~((shall))~~ **must** demonstrate by monitoring that the airborne fiber concentration is below:

- The permissible exposure limits; or(;) )

- At or below the airborne fiber level existing prior to the start of the ~~((removal, demolition, or renovation project))~~ **asbestos work**; whichever level is lower.

(3) Compliance program.

(a) Where either the time weighted average and/or excursion limit is exceeded, the employer ~~((shall))~~ **must** establish and implement a written program to reduce employee exposure to or below the permissible exposure limits by means of engineering and work practice controls as required by subsection (1) of this section, and by the use of respiratory protection where required or permitted under this section.

(b) Such programs ~~((shall))~~ **must** be reviewed and updated as necessary to reflect significant changes in the status of the employer's compliance program.

(c) Written programs ~~((shall))~~ **must** be submitted upon request for examination and copying to the director, affected employees and designated employee representatives.

(d) The employer ~~((shall))~~ **must** not use employee rotation as a means of compliance with the permissible exposure limits specified in WAC 296-62-07705.

(4) Specific compliance methods for brake and clutch repair:

(a) Engineering controls and work practices for brake and clutch repair and service. During automotive brake and clutch inspection, disassembly, repair and assembly operations, the employer ~~((shall))~~ **must** institute engineering controls and work practices to reduce employee exposure to materials containing asbestos using a negative pressure enclosure/HEPA vacuum system method or low pressure/wet cleaning method which meets the detailed requirements set out in Appendix F to this section. The employer may also comply using an equivalent method which follows written procedures which the employer demonstrates can achieve results equivalent to Method A in Appendix F to this section. For facilities in which no more than 5 pair of brakes or 5 clutches are inspected, disassembled, repaired, or assembled per week, the method set forth in Appendix F to this section may be used.

(b) The employer may also comply by using an equivalent method which follows written procedures, which the employer demonstrates can achieve equivalent exposure reductions as do the two "preferred methods." Such demonstration must include monitoring data conducted under workplace conditions closely resembling the process, type of asbestos containing materials, control method, work practices and environmental conditions which the equivalent method will be used, or objective data, which document that under all reasonably foreseeable conditions of brake and clutch repair applications, the method results in exposure which are equivalent to the methods set out in Appendix F to this section.

**AMENDATORY SECTION** (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

**WAC 296-62-07721 Communication of hazards to employees.** (1) Communication of hazards to employees. General industry requirements.

(a) Introduction. This section applies to the communication of information concerning asbestos hazards in general industry. Asbestos exposure in industry occurs in a wide variety of industrial and commercial settings. Employees who manufacture asbestos-containing products may be exposed to asbestos fibers. Employees who repair and replace automotive brakes and clutches may be exposed to asbestos fibers. In addition, employees engaged in housekeeping activities in industrial facilities with asbestos product manufacturing operations, and in public and commercial buildings with installed asbestos-containing materials may be exposed to asbestos fibers. It should be noted that employees who perform housekeeping activities during and after construction activities are covered by asbestos construction work requirements in WAC 296-62-077. Housekeeping employees, regardless of industry designation, should know whether building components they maintain may expose them to asbestos. Building owners are often the only and/or best source of information concerning the presence of previously installed asbestos-containing building materials. Therefore they, along with employers of potentially exposed employees, are assigned specific information conveying and retention duties under this section.

(b) Installed asbestos-containing material. Employers and building owners are required to treat installed TSI and sprayed-on and troweled-on surfacing materials as ACM for the purposes of this standard. These materials are designated "presumed ACM or PACM," and are defined in WAC 296-62-07703. Asphalt and vinyl flooring installed no later than 1980 also ~~((shall))~~ **must** be treated as asbestos-containing. The employer or building owner may demonstrate that PACM and flooring materials do not contain asbestos by complying with WAC 296-62-07712 (10)(a)(ix).

(c) Duties of employers and building and facility owners.

(i) Building and facility owners ~~((shall))~~ **must** determine the presence, location, and quantity of ACM and/or PACM at the worksite. Employers and building and facility owners ~~((shall))~~ **must** exercise due diligence in complying with these requirements to inform employers and employees about the presence and location of ACM and PACM.

(ii) Before authorizing or allowing any construction, renovation, remodeling, maintenance, repair, or demolition project, an owner or owner's agent ((~~shall~~)) must perform, or cause to be performed, a good faith inspection to determine whether materials to be worked on or removed contain asbestos. The inspection ((~~shall~~)) must be documented by a written report maintained on file and made available upon request to the director.

(A) The good faith inspection ((~~shall~~)) must be conducted by an accredited inspector.

(B) Such good faith inspection is not required if the owner or owner's agent is reasonably certain that asbestos will not be disturbed by the project or the owner or owner's agent assumes that the suspect material contains asbestos and handles the material in accordance with WAC 296-62-07701 through 296-62-07753.

(iii) The owner or owner's agent ((~~shall~~)) must provide, to all contractors submitting a bid to undertake any construction, renovation, remodeling, maintenance, repair, or demolition project, the written statement either of the reasonable certainty of nondisturbance of asbestos or of assumption of the presence of asbestos. Contractors ((~~shall~~)) must be provided with the written report before they apply or bid to work.

(iv) Any owner or owner's agent who fails to comply with (c)(ii) and (iii) of this subsection ((~~shall~~)) must be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues ((~~shall~~)) must be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section ((~~shall~~)) must be halted immediately and cannot be resumed before meeting such requirements.

(v) Building and facility owners ((~~shall~~)) must inform employers of employees, and employers ((~~shall~~)) must inform employees who will perform housekeeping activities in areas which contain ACM and/or PACM of the presence and location of ACM and/or PACM in such areas which may be contacted during such activities.

(vi) Upon written or oral request, building or facility owners ((~~shall~~)) must make a copy of the written report required in this section available to the department of labor and industries and the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report ((~~shall~~)) must be posted conspicuously at the location where employees report to work.

(vii) Building and facility owners ((~~shall~~)) must maintain records of all information required to be provided ((~~pursuant~~)) according to this section and/or otherwise known to the building owner concerning the presence, location and quantity of ACM and PACM in the building/facility. Such records ((~~shall~~)) must be kept for the duration of ownership and ((~~shall~~)) must be transferred to successive owners.

(2) Communication of hazards to employees. Requirements for construction and shipyard employment activities.

(a) Introduction. This section applies to the communication of information concerning asbestos hazards in construction and shipyard employment activities. Most asbestos-related construction and shipyard activities involve previ-

ously installed building materials. Building/vessel owners often are the only and/or best sources of information concerning them. Therefore, they, along with employers of potentially exposed employees, are assigned specific information conveying and retention duties under this section. Installed Asbestos Containing Building/Vessel Material: Employers and building/vessel owners ((~~shall~~)) must identify TSI and sprayed or troweled on surfacing materials as asbestos-containing unless the employer, by complying with WAC 296-62-07721(3) determines it is not asbestos containing. Asphalt or vinyl flooring/decking material installed in buildings or vessels no later than 1980 ((~~shall~~)) must also be considered as asbestos containing unless the employer/owner, ((~~pursuant~~)) according to WAC 296-62-07712 (10)(a)(ix) determines it is not asbestos containing. If the employer or building/vessel owner has actual knowledge or should have known, through the exercise of due diligence, that materials other than TSI and sprayed-on or troweled-on surfacing materials are asbestos containing, they ((~~shall~~)) must be treated as such. When communicating information to employees ((~~pursuant~~)) according to this standard, owners and employers ((~~shall~~)) must identify "PACM" as ACM. Additional requirements relating to communication of asbestos work on multi-employer worksites are set out in WAC 296-62-07706.

(b) Duties of building/vessel and facility owners.

(i) Before work subject to this section 'is begun, building/vessel and facility owners ((~~shall~~)) must identify the presence, location and quantity of ACM, and/or PACM at the worksite. All thermal system insulation and sprayed on or troweled on surfacing materials in buildings/vessels or substrates constructed no later than 1980 ((~~shall~~)) must be identified as PACM. In addition, resilient flooring/decking material installed no later than 1980 ((~~shall~~)) must also be identified as asbestos containing.

(ii) Before authorizing or allowing any construction, renovation, remodeling, maintenance, repair, or demolition project, a building/vessel and facility owner or owner's agent ((~~shall~~)) must perform, or cause to be performed, a good faith inspection to determine whether materials to be worked on or removed contain asbestos. The inspection ((~~shall~~)) must be documented by a written report maintained on file and made available upon request to the director.

(A) The good faith inspection ((~~shall~~)) must be conducted by an accredited inspector.

(B) Such good faith inspection is not required if the building/vessel and facility owner or owner's agent assumes that the suspect material contains asbestos and handles the material in accordance with WAC 296-62-07701 through 296-62-07753 or if the owner or the owner's agent is reasonably certain that asbestos will not be ((~~distributed~~)) disturbed by the project.

(iii) The building/vessel and facility owner or owner's agent ((~~shall~~)) must provide, to all contractors submitting a bid to undertake any construction, renovation, remodeling, maintenance, repair, or demolition project, the written statement either of the reasonable certainty of nondisturbance of asbestos or of assumption of the presence of asbestos. Contractors ((~~shall~~)) must be provided the written report before they apply or bid on work.

(iv) Any building/vessel and facility owner or owners agent who fails to comply with WAC ((296-62-07719)) 296-62-07721 (2)(b)(ii) and (iii) ((shall)) must be subject to a mandatory fine of not less than two hundred fifty dollars for each violation. Each day the violation continues ((shall)) must be considered a separate violation. In addition, any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section ((shall)) must be halted immediately and cannot be resumed before meeting such requirements.

(v) Upon written or oral request, building/vessel and facility owner or owner's agent ((shall)) must make a copy of the written report required in this section available to the department of labor and industries and the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report ((shall)) must be posted conspicuously at the location where employees report to work.

(vi) Building/vessel and facility owner or owner's agent ((shall)) must notify in writing the following persons of the presence, location and quantity of ACM or PACM, at worksites in their buildings/facilities/vessels.

(A) Prospective employers applying or bidding for work whose employees reasonably can be expected to work in or adjacent to areas containing such material;

(B) Employees of the owner who will work in or adjacent to areas containing such material;

(C) On multi-employer worksites, all employers of employees who will be performing work within or adjacent to areas containing such materials;

(D) Tenants who will occupy areas containing such materials.

(c) Duties of employers whose employees perform work subject to this standard in or adjacent to areas containing ACM and PACM. Building/vessel and facility owner or owner's agents whose employees perform such work ((shall)) must comply with these provisions to the extent applicable.

(i) Before work subject to this standard is begun, building/vessel and facility owner or owner's agents ((shall)) must determine the presence, location, and quantity of ACM and/or PACM at the worksite ((pursuant)) according to WAC 296-62-07721 (2)(b).

(ii) Before work under this standard is performed employers of employees who will perform such work ((shall)) must inform the following persons of the location and quantity of ACM and/or PACM present at the worksite and the precautions to be taken to insure that airborne asbestos is confined to the area.

(A) Owners of the building/vessel or facility;

(B) Employees who will perform such work and employers of employees who work and/or will be working in adjacent areas;

(iii) Upon written or oral request, a copy of the written report required in this section ((shall)) must be made available to the department of labor and industries and the collective bargaining representatives or employee representatives of any employee who may be exposed to any asbestos or asbestos-containing materials. A copy of the written report

((shall)) must be posted conspicuously at the location where employees report to work.

(iv) Within 10 days of the completion of such work, the employer whose employees have performed work subject to this standard, ((shall)) must inform the building/vessel or facility owner and employers of employees who will be working in the area of the current location and quantity of PACM and/or ACM remaining in the former regulated area and final monitoring results, if any.

(d) In addition to the above requirements, all employers who discover ACM and/or PACM on a worksite ((shall)) must convey information concerning the presence, location and quantity of such newly discovered ACM and/or PACM to the owner and to other employers of employees working at the worksite, within 24 hours of the discovery.

(e) No contractor may commence any construction, renovation, remodeling, maintenance, repair, or demolition project without receiving a copy of the written response or statement required by WAC 296-62-07721 (2)(b). Any contractor who begins any project without the copy of the written report or statement ((shall)) will be subject to a mandatory fine of not less than two hundred fifty dollars per day. Each day the violation continues ((shall)) will be considered a separate violation.

(3) Criteria to rebut the designation of installed material as PACM.

(a) At any time, an employer and/or building/vessel owner may demonstrate, for purposes of this standard, that PACM does not contain asbestos. Building/vessel owners and/or employers are not required to communicate information about the presence of building material for which such a demonstration ((pursuant)) according to the requirements of (b) of this subsection has been made. However, in all such cases, the information, data and analysis supporting the determination that PACM does not contain asbestos, ((shall)) must be retained ((pursuant)) according to WAC 296-62-07727.

(b) An employer or owner may demonstrate that PACM does not contain asbestos by the following:

(i) Having a completed inspection conducted ((pursuant)) according to the requirements of AHERA (40 CFR Part 763, Subpart E) which demonstrates that the material is not ACM;

(ii) Performing tests of the material containing PACM which demonstrate that no asbestos is present in the material. Such tests ((shall)) must include analysis of bulk samples collected in the manner described in 40 CFR 763.86, Asbestos-containing materials in schools. The tests, evaluation and sample collection ((shall)) must be conducted by an accredited inspector. Analysis of samples ((shall)) must be performed by persons or laboratories with proficiency demonstrated by current successful participation in a nationally recognized testing program such as the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute for Standards and Technology (NIST) or the Round Robin for bulk samples administered by the American Industrial Hygiene Associate (AIHA), or an equivalent nationally recognized Round Robin testing program.

(4) At the entrance to mechanical rooms/areas in which employees reasonably can be expected to enter and which contain TSI or surfacing ACM and PACM, the building/

vessel and facility owner or owner's agent ((~~shall~~)) must post signs which identify the material which is present, its location, and appropriate work practices which, if followed, will ensure that ACM and/or PACM will not be disturbed. The employer shall ensure, to the extent feasible, that employees who come in contact with these signs can comprehend them. Means to ensure employee comprehension may include the use of foreign languages, pictographs, graphics, and awareness training.

(5) Warning signs.

(a) Warning signs that demarcate the regulated area ((~~shall~~)) must be provided and displayed at each location where a regulated area is required. In addition, warning signs ((~~shall~~)) must be posted at all approaches to regulated areas and be posted at such a distance from such a location that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(b) The warning signs required by (a) of this subsection ((~~shall~~)) must bear the following information:

DANGER  
ASBESTOS  
CANCER AND LUNG DISEASE HAZARD  
AUTHORIZED PERSONNEL ONLY  
RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN  
THIS AREA

(c) The employer shall ensure that employees working in and contiguous to regulated areas comprehend the warning signs required to be posted by (a) of this subsection. Means to ensure employee comprehension may include the use of foreign languages, pictographs, and graphics.

(6) Warning labels.

(a) Warning labels ((~~shall~~)) must be affixed to all products containing asbestos including raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, and to their containers including waste containers. ~~((Where feasible,))~~ Installed asbestos products ((~~shall~~)) must contain a visible label, except where such a label would clearly not be feasible.

(b) Labels ((~~shall~~)) must be printed in large, bold letters on a contrasting background.

(c) The labels ((~~shall~~)) must comply with the requirements of WAC 296-62-05411, and ((~~shall~~)) must include the following information:

DANGER  
CONTAINS ASBESTOS FIBERS  
AVOID CREATING DUST  
CANCER AND LUNG DISEASE HAZARD  
AVOID BREATHING AIRBORNE ASBESTOS FIBERS

(7) The provisions for labels required by subsection (6)(a) of this section or for material safety data sheets required by subsection (8) of this section do not apply where:

(a) Asbestos fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that during any reasonably foreseeable use, handling, storage, disposal, processing, or

transportation, no airborne concentrations of fibers of asbestos in excess of the excursion limit will be released; or

(b) Asbestos is present in a product in concentrations less than ~~((0.4))~~ 1.0 percent by weight.

(8) Material safety data sheets. Employers who are manufacturers or importers of asbestos, or asbestos products ((~~shall~~)) must comply with the requirements regarding development of material safety data sheets as specified in WAC 296-62-05413, except as provided by subsection (7) of this section.

(9) When a building/vessel owner/or employer identifies previously installed PACM and/or ACM, labels or signs ((~~shall~~)) must be affixed or posted so that employees will be notified of what materials contain PACM and/or ACM. The employer ((~~shall~~)) must attach such labels in areas where they will clearly be noticed by employees who are likely to be exposed, such as at the entrance to mechanical rooms/areas. Signs required by subsection (5)(a) of this section may be posted in lieu of labels so long as they contain information required for labeling. The employer ((~~shall~~)) must ensure, to the extent feasible, that employees who come in contact with these signs can comprehend them. Means to ensure employee comprehension may include the use of foreign languages, pictographs, graphics, and awareness training.

AMENDATORY SECTION (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-62-0772 Employee information and training.** (1) Certification.

(a) ~~((All individuals working or supervising asbestos projects, as defined in WAC 296-65-003 shall be certified as required by WAC 296-65-010, 296-65-012, and 296-65-030.~~

~~((b) In cases where certification requirements of chapter 296-65 WAC do not apply, all employees shall be trained according to provisions of this section regardless of their exposure levels.)) Only certified asbestos workers may work on an asbestos project as required in WAC 296-65-010 and 296-65-030.~~

~~((b) Only certified asbestos supervisors may supervise asbestos abatement projects as required in WAC 296-65-012 and 296-65-030.~~

~~((c) In cases where certification requirements of chapter 296-65 WAC do not apply, all employees must be trained according to the provisions of this section regardless of their exposure levels.~~

~~((d) Certification is not required for asbestos work on materials containing less than one percent asbestos.~~

(2) Training ((~~shall~~)) must be provided prior to or at the time of initial assignment, unless the employee has received equivalent training within the previous twelve months, and at least annually thereafter.

(3) ~~((Training for employees performing Class I and Class II operations.)) Asbestos projects.~~

(a) ~~((Training for))~~ Class I and Class II ~~((operations shall be the certified asbestos worker training specified in WAC 296-65-003, 296-65-010, and 296-65-030))~~ work must be considered an asbestos project. Only certified asbestos workers may do this work.

PERMANENT



~~(b) ((Exceptions. For employees whose Class II work with intact asbestos-containing materials involves only the removal and/or disturbance of one generic category of intact building/vessel material, such as intact roofing material, bituminous or asphaltic pipeline coating, intact flooring/decking material, siding materials and ceiling tiles, or transite panels, such employers are required to train employees who perform such work by providing a training course which includes as a minimum all elements of subsection (5) of this section and in addition the specific work practices and engineering controls set forth in WAC 296-62-07712 and 296-62-07713 which specifically relate to that material category. Such course shall include "hands-on" training, and shall take at least 8 hours.~~

~~(i) For Class II operations involving intact materials not specified in (b) of this subsection, training shall include the requirements of (b) of this subsection and specific work practices and engineering controls specified in WAC 296-62-07712 which specifically relates to the category of material being removed, and shall include hands on training in the work practices applicable to each category of material the employee removes and each removal method that the employee uses.~~

~~(ii) Employees performing Class II operations that require the use of critical barriers (or equivalent isolation methods) and/or negative pressure enclosures, shall be certified as required by WAC 296-65-010, 296-65-012, and 296-65-030.) Only certified workers may conduct Class II asbestos work that is considered an asbestos project.~~

~~(i) The following Class II asbestos work must be considered asbestos projects:~~

~~(A) All Class II asbestos work where critical barriers, equivalent isolation methods, or negative pressure enclosures are required; or~~

~~(B) All Class II asbestos work where asbestos containing materials do not stay intact (including removal of vinyl asbestos floor (VAT) or roofing materials by mechanical methods such as chipping, grinding, or sanding).~~

~~(ii) The following Class II asbestos work is not considered an asbestos project and is excluded from asbestos worker certification:~~

~~(A) All Class II asbestos work involving intact asbestos containing materials (for example, intact roofing materials, bituminous or asphalt pipeline coatings, and intact flooring/decking materials);~~

~~(B) All Class II asbestos work of less than one square foot of asbestos containing materials; or~~

~~(C) All Class II asbestos work involving asbestos-cement water pipe when the work is done in accordance with training approved by the department through the asbestos certification program (see WAC 296-65-015(4)).~~

~~(iii) Asbestos work involving the removal of one square foot or more of intact roofing materials by mechanical sawing or heavy equipment must meet the following requirements:~~

~~(A) Only certified asbestos workers may conduct mechanical sawing of intact roofing material;~~

~~(B) Noncertified asbestos workers may handle roofing dust, material and debris;~~

~~(C) Operators of heavy equipment (such as track hoes with clam shells and excavators) do not need to be certified~~

~~asbestos workers in the removal or demolition of intact roofing materials.~~

~~(c) Only certified asbestos workers may conduct all Class III and Class IV asbestos work that is considered an asbestos project.~~

~~(i) The following asbestos work is considered an asbestos project:~~

~~(A) All Class III asbestos work where one square foot or more of asbestos containing materials that do not stay intact;~~

~~(B) All Class IV asbestos work where one square foot or more of asbestos containing materials that do not stay intact;~~

~~or~~

~~(C) All Class III and Class IV asbestos work with pipe insulation.~~

~~(ii) Except for a project involving pipe insulation work, any project involving only Class III or Class IV asbestos work with less than one square foot of asbestos containing materials is not considered an asbestos project.~~

~~(4) Training ((for Class III and IV operations)) requirements for asbestos work that is not considered an asbestos project or is excluded from asbestos worker certification.~~

~~(a) ((Training for employees performing Class III and IV operations shall be the certified asbestos worker training specified in WAC 296-65-003, 296-65-001, and 296-65-030.~~

~~(b) Training for Class III asbestos work exempted from certification requirements in chapter 296-65 WAC, safety standards for asbestos removal and encapsulation shall be the equivalent in curriculum and training method to the 16-hour operations and maintenance course developed by EPA for maintenance and custodial workers who conduct activities that will result in the disturbance of ACM. (See 40 CFR 763.92(a)(2).) Such course shall include "hands-on" training in the use of respiratory protection and work practices and shall take at least 16 hours.) Class II asbestos work.~~

~~(i) Employers must provide eight-hours of training to employees who perform asbestos work on one generic category of asbestos containing materials (ACM). When performing asbestos work in more than one category of asbestos containing materials, additional training must be used to supplement the first eight hour training course.~~

~~(ii) The training course must include:~~

- ~~• Hands-on training that applies to the category of asbestos containing materials.~~
- ~~• Specific work practices and engineering controls related to the category of asbestos containing materials present as specified in WAC 296-62-07712, and~~
- ~~• All the minimum elements of subsection (5) of this section.~~

~~(b) Class III asbestos work (maintenance and custodial work in buildings containing asbestos containing materials).~~

~~(i) Employers must provide training with curriculum and training methods equivalent to the 16-hour operations and maintenance course developed by the EPA. (See 40 CFR 763.92 (a)(2).) For those employees whose only affected work is Class II work as described in subsection (4)(a)(i) of this section, employers must meet this 16-hour training requirement or provide training that meets the eight hours Class II requirements in subsection (4)(a) of this section.~~

~~(ii) Sixteen hours of training must include:~~

- Hands-on training in the use of respiratory protection and work practices, and
- All the minimum elements of subsection (5) of this section.

(c) (~~(Training for)~~) Class IV asbestos work (~~(exempted from certification requirements in chapter 296-65 WAC, safety standards for asbestos removal and encapsulation shall be the equivalent in curriculum and training method to the awareness training course developed by EPA for maintenance and custodial workers who work in buildings containing asbestos-containing material. (See 40 CFR 763.92(a)(1).) Such course shall include available information concerning the locations of PACM an ACM, and asbestos-containing flooring material, or flooring material where the absence of asbestos has not been certified; and instruction in recognition of damage, deterioration, and delamination of asbestos-containing building materials. Such a course shall take at least 2 hours.)~~) (maintenance and custodial work in buildings containing asbestos-containing materials).

(i) Employers must provide at least two hours of training with curriculum and training methods equivalent to the awareness training course developed by the EPA.

(ii) Training must include:

- Available information concerning the location of PACM, ACM, asbestos-containing flooring materials or flooring materials where the absence of asbestos has not been certified,
- Instruction on how to recognize damaged, deteriorated, and delimitation of asbestos containing building materials, and
- All of the minimum elements of subsection (5) of this section.

(5) The training program ((~~shall~~)) must be conducted in a manner which the employee is able to understand. The employer ((~~shall~~)) must ensure that each employee is informed of the following:

- (a) The health effects associated with asbestos exposure;
- (b) The relationship between smoking and exposure to asbestos producing lung cancer;

(c) Methods of recognizing asbestos and quantity, location, manner of use, release (including the requirements of WAC 296-62-07721 (1)(c) and (2)(b) to presume certain building materials contain asbestos), and storage of asbestos and the specific nature of operations which could result in exposure to asbestos;

(d) The engineering controls and work practices associated with the employee's job assignment;

(e) The specific procedures implemented to protect employees from exposure to asbestos, such as appropriate work practices, housekeeping procedures, hygiene facilities, decontamination procedures, emergency and clean-up procedures (including where Class III and IV work is performed, the contents "Managing Asbestos In Place" (EPA 20T-2003, July 1990) or its equivalent in content), personal protective equipment to be used, waste disposal procedures, and any necessary instructions in the use of these controls and procedures;

(f) The purpose, proper use, and limitations of protective clothing;

(g) The purpose and a description of the medical surveillance program required by WAC 296-62-07725;

(h) The content of this standard, including appendices;

(i) The names, addresses and phone numbers of public health organizations which provide information, materials, and/or conduct programs concerning smoking cessation. The employer may distribute the list of such organizations contained in Appendix I, to comply with this requirement;

(j) The requirements for posting signs and affixing labels and the meaning of the required legends for such signs and labels; and

(k) The purpose, proper use, limitations, and other training requirements for respiratory protection as required by chapter 296-62 WAC, Part E (see WAC 296-62-07117, 296-62-07172, and 296-62-07186 through 296-62-07190).

(6) The employer ((~~shall~~)) must also provide, at no cost to employees who perform housekeeping operations in a facility which contains ACM or PACM, an asbestos awareness training course to all employees who are or will work in areas where ACM and/or PACM is present who work in buildings containing asbestos-containing materials, which ((~~shall~~)) must, at a minimum, contain the following elements:

- Health effects of asbestos,
- Locations of ACM and PACM in the building/facility,
- Recognition of ACM and PACM damage and deterioration,
- Requirements in this standard relating to housekeeping, and
- Proper response to fiber release episodes ~~(, to all employees who are or will work in areas where ACM and/or PACM is present).~~

Each such employee ((~~shall~~)) must be so trained at least once a year.

(7) Access to information and training materials.

(a) The employer ((~~shall~~)) must make a copy of this standard and its appendices readily available without cost to all affected employees.

(b) The employer ((~~shall~~)) must provide, upon request, all materials relating to the employee information and training program to the director.

(c) The employer ((~~shall~~)) must inform all employees concerning the availability of self-help smoking cessation program material. Upon employee request, the employer ((~~shall~~)) must distribute such material, consisting of NIH Publication No. 89-1647, or equivalent self-help material, which is approved or published by a public health organization listed in Appendix I, WAC 296-62-07751.

**AMENDATORY SECTION** (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

**WAC 296-62-07728 Competent person.** (1) General. For all construction and shipyard work covered by this standard, the employer ((~~shall~~)) must designate a competent person, having the qualifications and authorities for ensuring worker safety and health as required by chapter 296-155 WAC.

(2) Required inspections by the competent person. WAC 296-155-110(9) which requires health and safety prevention

programs to provide for frequent and regular inspections on the job sites, materials, and equipment to be made by the competent person, is incorporated.

(3) Additional inspections. In addition, the competent person ~~((shall))~~ **must** make frequent and regular inspections of the job sites in order to perform the duties set out below in this section. For Class I jobs, on-site inspections ~~((shall))~~ **must** be made at least once during each work shift, and at any time at employee request. For Class II and III jobs, on-site inspections ~~((shall))~~ **must** be made at intervals sufficient to assess whether conditions have changed, and at any reasonable time at employee request.

(4) On all worksites where employees are engaged in Class I or II asbestos work, the competent person designated in accordance with WAC 296-62-07712 ~~((shall))~~ **must** perform or supervise the following duties, as applicable:

- (a) Set up the regulated area, enclosure, or other containment;
- (b) Ensure (by on-site inspection) the integrity of the enclosure or containment;
- (c) Set up procedures to control entry and exit from the enclosure and/or area;
- (d) Supervise all employee exposure monitoring required by this section and ensure that it is conducted as required by WAC 296-62-07709;
- (e) Ensure that employees working within the enclosure and/or using glovebags wear protective clothing and respirators as required by WAC 296-62-07715 and 296-62-07717;
- (f) Ensure through on-site supervision, that employees set up and remove engineering controls, use work practices and personal protective equipment in compliance with all requirements;
- (g) Ensure that employees use the hygiene facilities and observe the decontamination procedures specified in WAC 296-62-07719;

(h) Ensure that through on-site inspection engineering controls are functioning properly and employees are using proper work practices; and

(i) Ensure that notification requirements in WAC 296-62-07721 are met.

(5) Training for competent person.

(a) For Class I and II asbestos work the competent person ~~((shall))~~ **must** be trained in all aspects of asbestos removal and handling, including:

- Abatement,
- Installation,
- Removal and handling,
- The contents of this standard,
- The identification of asbestos,
- Removal procedures where appropriate, and
- Other practices for reducing the hazard.

Such training ~~((shall))~~ **must** be the certified asbestos supervisor training specified in WAC 296-65-003, 296-65-012, and 296-65-030.

(b) For Class III and IV asbestos work:

(i) The competent person ~~((shall))~~ **must** be certified as an asbestos supervisor as prescribed in WAC 296-65-012 and 296-65-030 for Class III and IV work involving an asbestos project of 3 square feet or 3 linear feet or more of asbestos containing material.

(ii) For Class III and IV asbestos work involving less than 3 square feet or 3 linear feet of asbestos containing material, ~~((and asbestos work exempted from certification requirements in chapter 296-65-WAC,))~~ the competent person ~~((shall))~~ **must** be trained in:

- Aspects of asbestos handling appropriate for the nature of the work, to include procedures for setting up glove bags and mini-enclosures,
- Practices for reducing asbestos exposures,
- Use of wet methods,
- The contents of this standard, and
- The identification of asbestos.

Such training ~~((shall))~~ **must** include successful completion of a course equivalent in curriculum and training method to the 16-hour Operations and Maintenance course developed by EPA for maintenance and custodial workers (see 40 CFR 763.92 (a)(2)) or its equivalent in stringency, content and length.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07735 Appendix A—WISHA reference method—Mandatory.** This mandatory appendix specifies the procedure for analyzing air samples for asbestos, tremolite, anthophyllite, and actinolite and specifies quality control procedures that must be implemented by laboratories performing the analysis. The sampling and analytical methods described below represent the elements of the available monitoring methods (such as Appendix B to this section, the most current version of the WISHA method ID-60, or the most current version of the NIOSH 7400 method) which WISHA considers to be essential to achieve adequate employee exposure monitoring while allowing employers to use methods that are already established within their organizations. All employers who are required to conduct air monitoring under WAC 296-62-07709 are required to utilize analytical laboratories that use this procedure, or an equivalent method, for collecting and analyzing samples.

(1) Sampling and analytical procedure.

(a) The sampling medium for air samples ~~((shall))~~ **must** be mixed cellulose ester filter membranes. These ~~((shall))~~ **must** be designated by the manufacturer as suitable for asbestos, tremolite, anthophyllite, and actinolite counting. See below for rejection of blanks.

(b) The preferred collection device ~~((shall be))~~ **is** the 25-mm diameter cassette with an open-faced 50-mm electrically conductive extension cowl. The 37-mm cassette may be used if necessary but only if written justification for the need to use the 37-mm filter cassette accompanies the sample results in the employee's exposure monitoring record. Do not reuse or reload cassettes for asbestos sample collection.

(c) An air flow rate between 0.5 liter/min and ~~((2.5))~~ **4.0** liters/min ~~((shall))~~ **must** be selected for the 25-mm cassette. If the 37-mm cassette is used, an air flow rate between 1 liter/min and 4.0 liters/min ~~((shall))~~ **must** be selected.

(d) Where possible, a sufficient air volume for each air sample ~~((shall))~~ **must** be collected to yield between one hundred and one thousand three hundred fibers per square milli-

PERMANENT

meter on the membrane filter. If a filter darkens in appearance or if loose dust is seen on the filter, a second sample ((shall)) must be started.

(e) Ship the samples in a rigid container with sufficient packing material to prevent dislodging the collected fibers. Packing material that has a high electrostatic charge on its surface (e.g., expanded polystyrene) cannot be used because such material can cause loss of fibers to the sides of the cassette.

(f) Calibrate each personal sampling pump before and after use with a representative filter cassette installed between the pump and the calibration devices.

(g) Personal samples ((shall)) must be taken in the "breathing zone" of the employee (i.e., attached to or near the collar or lapel near the worker's face).

(h) Fiber counts ((shall)) must be made by positive phase contrast using a microscope with an 8 to 10 X eyepiece and a 40 to 45 X objective for a total magnification of approximately 400 X and a numerical aperture of 0.65 to 0.75. The microscope shall also be fitted with a green or blue filter.

(i) The microscope ((shall)) must be fitted with a Walton-Beckett eyepiece graticule calibrated for a field diameter of one hundred micrometers (+/-2 micrometers).

(j) The phase-shift detection limit of the microscope ((shall)) must be about 3 degrees measured using the HSE phase shift test slide as outlined below.

(i) Place the test slide on the microscope stage and center it under the phase objective.

(ii) Bring the blocks of grooved lines into focus.

Note: The slide consists of seven sets of grooved lines (ca. 20 grooves to each block) in descending order of visibility from sets one to seven, seven being the least visible. The requirements for asbestos, tremolite, anthophyllite, and actinolite counting are that the microscope optics must resolve the grooved lines in set three completely, although they may appear somewhat faint, and that the grooved lines in sets six and seven must be invisible. Sets four and five must be at least partially visible but may vary slightly in visibility between microscopes. A microscope that fails to meet these requirements has either too low or too high a resolution to be used for asbestos, tremolite, anthophyllite, and actinolite counting.

(iii) If the image deteriorates, clean and adjust the microscope optics. If the problem persists, consult the microscope manufacturer.

(k) Each set of samples taken will include ten percent blanks or a minimum of two blanks. These blanks must come from the same lot as the filters used for sample collection. The field blank results ((shall)) must be averaged and subtracted from the analytical results before reporting. Any samples represented by a blank having a fiber count in excess of the detection limit of the method being used ((shall)) must be rejected.

(l) The samples ((shall)) must be mounted by the acetone/triacetin method or a method with an equivalent index of refraction and similar clarity.

(m) Observe the following counting rules.

(i) Count only fibers equal to or longer than five micrometers. Measure the length of curved fibers along the curve.

(ii) Count all particles as asbestos, tremolite, anthophyllite, and actinolite that have a length-to-width ratio (aspect ratio) of three to one or greater.

(iii) Fibers lying entirely within the boundary of the Walton-Beckett graticule field ((shall)) must receive a count of one. Fibers crossing the boundary once, having one end within the circle, ((shall)) must receive the count of one-half. Do not count any fiber that crosses the graticule boundary more than once. Reject and do not count any other fibers even though they may be visible outside the graticule area.

(iv) Count bundles of fibers as one fiber unless individual fibers can be identified by observing both ends of an individual fiber.

(v) Count enough graticule fields to yield 100 fibers. Count a minimum of 20 fields; stop counting at 100 fields regardless of fiber count.

(n) Blind recounts ((shall)) must be conducted at the rate of ten percent.

(2) Quality control procedures.

(a) Intralaboratory program. Each laboratory and/or each company with more than one microscopist counting slides ((shall)) must establish a statistically designed quality assurance program involving blind recounts and comparisons between microscopists to monitor the variability of counting by each microscopist and between microscopists. In a company with more than one laboratory, the program ((shall)) must include all laboratories and ((shall)) must also evaluate the laboratory-to-laboratory variability.

(b) Interlaboratory program.

(i) Each laboratory analyzing asbestos, tremolite, anthophyllite, and actinolite samples for compliance determination shall implement an interlaboratory quality assurance program that as a minimum includes participation of at least two other independent laboratories. Each laboratory ((shall)) must participate in round robin testing at least once every six months with at least all the other laboratories in its interlaboratory quality assurance group. Each laboratory ((shall)) must submit slides typical of its own work load for use in this program. The round robin shall be designed and results analyzed using appropriate statistical methodology.

(ii) All laboratories should participate in a national sample testing scheme such as the Proficiency Analytical Testing Program (PAT), the Asbestos Registry sponsored by the American Industrial Hygiene Association (AIHA).

(c) All individuals performing asbestos, tremolite, anthophyllite, and actinolite analysis must have taken the NIOSH course for sampling and evaluating airborne asbestos, tremolite, anthophyllite, and actinolite dust or an equivalent course, recognized by the department.

(d) When the use of different microscopes contributes to differences between counters and laboratories, the effect of the different microscope ((shall)) must be evaluated and the microscope ((shall)) must be replaced, as necessary.

(e) Current results of these quality assurance programs ((shall)) must be posted in each laboratory to keep the microscopists informed.

**AMENDATORY SECTION** (Amending WSR 97-01-079, filed 12/17/96, effective 3/1/97)

**WAC 296-62-07737 Appendix B—Detailed procedure for asbestos sampling and analysis—Nonmandatory.**

**Air**

Matrix:

WISHA Permissible Exposure Limits:

Time Weighted Average	0.1 fiber/cc
Excursion Level (30 minutes)	1.0 fiber/cc

**Collection Procedure:**

A known volume of air is drawn through a 25-mm diameter cassette containing a mixed-cellulose ester filter. The cassette must be equipped with an electrically conductive 50-mm extension cowl. The sampling time and rate are chosen to give a fiber density of between 100 to 1,300 fibers/mm<sup>2</sup> on the filter.

Recommended Sampling Rate 0.5 to ((5-θ)) 4.0 liters/minute (L/min)

Recommended Air Volumes:

Minimum	25 L
Maximum	2,400 L

**Analytical Procedure:** A portion of the sample filter is cleared and prepared for asbestos fiber counting by Phase Contrast Microscopy (PCM) at 400X. Commercial manufacturers and products mentioned in this method are for descriptive use only and do not constitute endorsements by WISHA. Similar products from other sources can be substituted.

**Introduction.**

This method describes the collection of airborne asbestos fibers using calibrated sampling pumps with mixed-cellulose ester (MCE) filters and analysis by phase contrast microscopy (PCM). Some terms used are unique to this method and are defined below:

**Asbestos:** A term for naturally occurring fibrous minerals. Asbestos includes chrysotile, crocidolite, amosite (cummingtonite-grunerite asbestos), tremolite asbestos, actinolite asbestos, anthophyllite asbestos, and any of these minerals that have been chemically treated and/or altered. The precise chemical formulation of each species will vary with the location from which it was mined. Nominal compositions are listed:

Chrysotile	$Mg_3Si_2O_5(OH)_4$
Crocidolite	$Na_2Fe_3^{2+}Fe_2^{3+}Si_8O_{22}(OH)_2$
Amosite	$(Mg,Fe)_7Si_8O_{22}(OH)_2$
Tremolite-actinolite	$Ca_2(Mg,Fe)_5Si_8O_{22}(OH)_2$
Anthophyllite	$(Mg,Fe)_7Si_8O_{22}(OH)_2$

**Asbestos Fiber:** A fiber of asbestos which meets the criteria specified below for a fiber.

**Aspect Ratio:** The ratio of the length of a fiber to its diameter (e.g. 3:1, 5:1 aspect ratios).

**Cleavage Fragments:** Mineral particles formed by comminution of minerals, especially those characterized by parallel sides and a moderate aspect ratio (usually less than 20:1).

**Detection Limit:** The number of fibers necessary to be 95% certain that the result is greater than zero.

**Differential Counting:** The term applied to the practice of excluding certain kinds of fibers from the fiber count because they do not appear to be asbestos.

**Fiber:** A particle that is 5 μm or longer, with a length-to-width ratio of 3 to 1 or longer.

**Field:** The area within the graticule circle that is superimposed on the microscope image.

**Set:** The samples which are taken, submitted to the laboratory, analyzed, and for which, interim or final result reports are generated.

**Tremolite, Anthophyllite, and Actinolite:** The non-asbestos form of these minerals which meet the definition of a fiber. It includes any of these minerals that have been chemically treated and/or altered.

**Walton-Beckett Graticule:** An eyepiece graticule specifically designed for asbestos fiber counting. It consists of a circle with a projected diameter of  $100 \pm 2 \mu m$  (area of about 0.00785 mm<sup>2</sup>) with a crosshair having tic-marks at 3-μm intervals in one direction and 5-μm in the orthogonal direction. There are marks around the periphery of the circle to demonstrate the proper sizes and shapes of fibers. The disk is placed in one of the microscope eyepieces so that the design is superimposed on the field of view.

**1. History.**

(a) Early surveys to determine asbestos exposures were conducted using impinger counts of total dust with the counts expressed as million particles per cubic foot. The British Asbestos Research Council recommended filter membrane counting in 1969. In July 1969, the Bureau of Occupational Safety and Health published a filter membrane method for counting asbestos fibers in the United States. This method was refined by NIOSH and published as P & CAM 239. On May 29, 1971, OSHA specified filter membrane sampling with phase contrast counting for evaluation of asbestos exposures at worksites in the United States. The use of this technique was again required by OSHA in 1986. Phase contrast microscopy has continued to be the method of choice for the measurement of occupational exposure to asbestos.

(b) Principle. Air is drawn through a MCE filter to capture airborne asbestos fibers. A wedge shaped portion of the filter is removed, placed on a glass microscope slide and made transparent. A measured area (field) is viewed by PCM. All the fibers meeting a defined criteria for asbestos are counted and considered a measure of the airborne asbestos concentration.

(c) Advantages and Disadvantages

(i) There are four main advantages of PCM over other methods:

(A) The technique is specific for fibers. Phase contrast is a fiber counting technique which excludes non-fibrous particles from the analysis.

(B) The technique is inexpensive and does not require specialized knowledge to carry out the analysis for total fiber counts.

(C) The analysis is quick and can be performed on-site for rapid determination of air concentrations of asbestos fibers.

(D) The technique has continuity with historical epidemiological studies so that estimates of expected disease can be inferred from long-term determinations of asbestos exposures.

(ii) The main disadvantage of PCM is that it does not positively identify asbestos fibers. Other fibers which are not asbestos may be included in the count unless differential counting is performed. This requires a great deal of experience to adequately differentiate asbestos from non-asbestos fibers. Positive identification of asbestos must be performed by polarized light or electron microscopy techniques. A further disadvantage of PCM is that the smallest visible fibers are about 0.2 μm in diameter while the finest asbestos fibers may be as small as 0.02 μm in diameter. For some exposures, substantially more fibers may be present than are actually counted.

(d) Workplace Exposure. Asbestos is used by the construction industry in such products as shingles, floor tiles, asbestos cement, roofing felts, insulation and acoustical products. Non-construction uses include brakes, clutch facings, paper, paints, plastics, and fabrics. One of the most significant exposures in the workplace is the removal and encapsulation of asbestos in schools, public buildings, and homes. Many workers have the potential to be exposed to asbestos during these operations. About 95% of the asbestos in commercial use in the United States is chrysotile. Crocidolite and amosite make up most of the remainder. Anthophyllite and tremolite or actinolite are likely to be encountered as contaminants in various industrial products.

(e) Physical Properties. Asbestos fiber possesses a high tensile strength along its axis, is chemically inert, non-combustible, and heat resistant. It has a high electrical resistance and good sound absorbing properties. It can be weaved into cables, fabrics or other textiles, and also matted into asbestos papers, felts, or mats.

2. Range and Detection Limit.

(a) The ideal counting range on the filter is 100 to 1,300 fibers/mm<sup>2</sup>. With a Walton-Beckett graticule this range is equivalent to 0.8 to 10 fibers/field. Using NIOSH counting statistics, a count of 0.8 fibers/field would give an approximate coefficient of variation (CV) of 0.13.

(b) The detection limit for this method is 4.0 fibers per 100 fields or 5.5 fibers/mm<sup>2</sup>. This was determined using an equation to estimate the maximum CV possible at a specific concentration (95% confidence) and a Lower Control Limit of zero. The CV value was then used to determine a corresponding concentration from historical CV vs fiber relationships. As an example:

$$\text{Lower Control Limit (95\% Confidence)} = AC - 1.645(CV)(AC)$$

Where:

- AC = Estimate of the airborne fiber concentration (fibers/cc) Setting the Lower Control Limit=0 and solving for CV:
- 0 = AC - 1.645(CV)(AC)
- CV = 0.61

This value was compared with CV vs. count curves. The count at which CV=0.61 for Leidel-Busch counting statistics 8(i) or for an OSHA Salt Lake Technical Center (OSHA-SLTC) CV curve (see Appendix A for further information) was 4.4 fibers or 3.9 fibers per 100 fields, respectively. Although a lower detection limit of 4 fibers per 100 fields is supported by the OSHA-SLTC data, both data sets support the 4.5 fibers per 100 fields value.

3. Method Performance—Precision and Accuracy. Precision is dependent upon the total number of fibers counted and the uniformity of the fiber distribution on the filter. A general rule is to count at least 20 and not more than 100 fields. The count is discontinued when 100 fibers are counted, provided that 20 fields have already been counted. Counting more than 100 fibers results in only a small gain in precision. As the total count drops below 10 fibers, an accelerated loss of precision is noted. At this time, there is no known method to determine the absolute accuracy of the asbestos analysis. Results of samples prepared through the Proficiency Analytical Testing (PAT) Program and analyzed by the OSHA-SLTC showed no significant bias when compared to PAT reference values. The PAT samples were analyzed from 1987 to 1989 (N=36) and the concentration range was from 120 to 1,300 fibers/mm<sup>2</sup>.

4. Interferences. Fibrous substances, if present, may interfere with asbestos analysis. Some common fibers are:

Fiber glass	Perlite veins.
Anhydrite plant fibers gypsum	Some synthetic fibers.
Membrane structures	Sponge spicules and diatoms.
Microorganisms	Wollastonite.

The use of electron microscopy or optical tests such as polarized light, and dispersion staining may be used to differentiate these materials from asbestos when necessary.

5. Sampling.

(a) Equipment.

(i) Sample assembly. Conductive filter holder consisting of a 25-mm diameter, 3-piece cassette having a 50-mm long electrically conductive extension cowl. Backup pad, 25-mm, cellulose. Membrane filter, mixed-cellulose ester (MCE), 25-mm, plain, white, 0.8- to 1.2-μm pore size.

Notes: (A) DO NOT RE-USE CASSETTES.

(B) Fully conductive cassettes are required to reduce fiber loss to the sides of the cassette due to electrostatic attraction.

PERMANENT

(C) Purchase filters which have been selected by the manufacturer for asbestos counting or analyze representative filters for fiber background before use. Discard the filter lot if more than ((4)) 5 fibers/100 fields are found.

(D) To decrease the possibility of contamination, the sampling system (filter-backup pad-cassette) for asbestos is usually preassembled by the manufacturer.

(ii) Gel bands for sealing cassettes.

(iii) Sampling pump. Each pump must be a battery operated, self-contained unit small enough to be placed on the monitored employee and not interfere with the work being performed. The pump must be capable of sampling at 2.5 liters per minute (L/min) for the required sampling time.

(iv) Flexible tubing, 6-mm bore.

(v) Pump calibration. Stopwatch and bubble tube/burette or electronic meter.

(b) Sampling Procedure.

(i) Seal the point where the base and cowl of each cassette meet with a gel band or tape.

(ii) Charge the pumps completely before beginning.

(iii) Connect each pump to a calibration cassette with an appropriate length of 6-mm bore plastic tubing. Do not use luer connectors—the type of cassette specified above has built-in adapters.

(iv) Select an appropriate flow rate for the situation being monitored. The sampling flow rate must be between 0.5 and ((5.0)) 4.0 L/min for personal sampling and is commonly set between 1 and 2 L/min. Always choose a flow rate that will not produce overloaded filters.

(v) Calibrate each sampling pump before and after sampling with a calibration cassette in-line (Note: This calibration cassette should be from the same lot of cassettes used for sampling). Use a primary standard (e.g. bubble burette) to calibrate each pump. If possible, calibrate at the sampling site.

**Note:** If sampling site calibration is not possible, environmental influences may affect the flow rate. The extent is dependent on the type of pump used. Consult with the pump manufacturer to determine dependence on environmental influences. If the pump is affected by temperature and pressure changes, use the formula in ((Appendix B to)) subsection (10) of this section to calculate the actual flow rate.

(vi) Connect each pump to the base of each sampling cassette with flexible tubing. Remove the end cap of each cassette and take each air sample open face. Assure that each sample cassette is held open side down in the employee's breathing zone during sampling. The distance from the nose/mouth of the employee to the cassette should be about 10 cm. Secure the cassette on the collar or lapel of the employee using spring clips or other similar devices.

(vii) A suggested minimum air volume when sampling to determine TWA compliance is 25 L. For Excursion Limit (30 min sampling time) evaluations, a minimum air volume of 48 L is recommended.

(viii) The most significant problem when sampling for asbestos is overloading the filter with non-asbestos dust. Suggested maximum air sample volumes for specific environments are:

((Type of asbestos-	Index of refraction
Chrysotile.....	n=1.550:
Amosite.....	n=1.670 + 1.680.
Crocidolite.....	n=1.690:
Anthophyllite.....	n=1.605 and 1.620:
Tremolite.....	n=6.05 and 1.620
Actinolite.....	n=1.620))

Environment	Air Vol. (L)
Asbestos removal operations (visible dust)	100
Asbestos removal operations (little dust)	240
Office environments	400 to 2,400

**Caution:** Do not overload the filter with dust. High levels of non-fibrous dust particles may obscure fibers on the filter and lower the count or make counting impossible. If more than about 25 to 30% of the field area is obscured with dust, the result may be biased low. Smaller air volumes may be necessary when there is excessive non-asbestos dust in the air. While sampling, observe the filter with a small flashlight. If there is a visible layer of dust on the filter, stop sampling, remove and seal the cassette, and replace with a new sampling assembly. The total dust loading should not exceed 1 mg.

(ix) Blank samples are used to determine if any contamination has occurred during sample handling. Prepare two blanks for the first 1 to 20 samples. For sets containing greater than 20 samples, prepare blanks as 10% of the samples. Handle blank samples in the same manner as air samples with one exception: Do not draw any air through the blank samples. Open the blank cassette in the place where the sample cassettes are mounted on the employee. Hold it open for about 30 seconds. Close and seal the cassette appropriately. Store blanks for shipment with the sample cassettes.

(x) Immediately after sampling, close and seal each cassette with the base and plastic plugs. Do not touch or puncture the filter membrane as this will invalidate the analysis.

(xi) Attach a seal (OSHA-21 or equivalent) around each cassette in such a way as to secure the end cap plug and base plug. Tape the ends of the seal together since the seal is not long enough to be wrapped end-to-end. Also wrap tape around the cassette at each joint to keep the seal secure.

(c) Sample Shipment.

(i) Send the samples to the laboratory with paperwork requesting asbestos analysis. List any known fibrous interferences present during sampling on the paperwork. Also, note the workplace operation(s) sampled.

(ii) Secure and handle the samples in such that they will not rattle during shipment nor be exposed to static electricity. Do not ship samples in expanded polystyrene peanuts, vermiculite, paper shreds, or excelsior. Tape sample cassettes to sheet bubbles and place in a container that will cushion the samples without rattling.

PERMANENT

(iii) To avoid the possibility of sample contamination, always ship bulk samples in separate mailing containers.

## 6. Analysis.

### (a) Safety Precautions.

(i) Acetone is extremely flammable and precautions must be taken not to ignite it. Avoid using large containers or quantities of acetone. Transfer the solvent in a ventilated laboratory hood. Do not use acetone near any open flame. For generation of acetone vapor, use a spark free heat source.

(ii) Any asbestos spills should be cleaned up immediately to prevent dispersal of fibers. Prudence should be exercised to avoid contamination of laboratory facilities or exposure of personnel to asbestos. Asbestos spills should be cleaned up with wet methods and/or a High Efficiency Particulate-Air (HEPA) filtered vacuum.

Caution: Do not use a vacuum without a HEPA filter—It will disperse fine asbestos fibers in the air.

### (b) Equipment.

(i) Phase contrast microscope with binocular or trinocular head.

(ii) Widefield or Huygenian 10X eyepieces (NOTE: The eyepiece containing the graticule must be a focusing eyepiece. Use a 40X phase objective with a numerical aperture of 0.65 to 0.75).

(iii) Kohler illumination (if possible) with green or blue filter.

(iv) Walton-Beckett Graticule, type G-22 with  $100 \pm 2$   $\mu\text{m}$  projected diameter.

(v) Mechanical stage. A rotating mechanical stage is convenient for use with polarized light.

(vi) Phase telescope.

(vii) Stage micrometer with 0.01-mm subdivisions.

(viii) Phase-shift test slide, mark II (Available from PTR optics Ltd., and also McCrone).

(ix) Precleaned glass slides, 25 mm X 75 mm. One end can be frosted for convenience in writing sample numbers, etc., or paste-on labels can be used.

(x) Cover glass #1-1/2.

(xi) Scalpel (#10, curved blade).

(xii) Fine tipped forceps.

(xiii) Aluminum block for clearing filter.

(xiv) Automatic adjustable pipette, 100-to 500- $\mu\text{L}$ .

(xv) Micropipette, 5  $\mu\text{L}$ .

### (c) Reagents.

(i) Acetone (HPLC grade).

(ii) Triacetin (glycerol triacetate).

(iii) Lacquer or nail polish.

(d) Standard Preparation. A way to prepare standard asbestos samples of known concentration has not been developed. It is possible to prepare replicate samples of nearly equal concentration. This has been performed through the PAT program. These asbestos samples are distributed by the AIHA to participating laboratories. Since only about one-fourth of a 25-mm sample membrane is required for an asbestos count, any PAT sample can serve as a "standard" for replicate counting.

### (e) Sample Mounting.

**Note:** See Safety Precautions in (6)(a) before proceeding. The objective is to produce samples with a smooth (non-grainy) background in a medium with a refractive index of approximately 1.46. The technique below collapses the filter for easier focusing and produces permanent mounts which are useful for quality control and interlaboratory comparison. An aluminum block or similar device is required for sample preparation.

See Safety Precautions in (6)(a) before proceeding. The objective is to produce samples with a smooth (non-grainy) background in a medium with a refractive index of approximately 1.46. The technique below collapses the filter for easier focusing and produces permanent mounts which are useful for quality control and interlaboratory comparison. An aluminum block or similar device is required for sample preparation.

(i) Heat the aluminum block to about 70°C. The hot block should not be used on any surface that can be damaged by either the heat or from exposure to acetone.

(ii) Ensure that the glass slides and cover glasses are free of dust and fibers.

(iii) Remove the top plug to prevent a vacuum when the cassette is opened. Clean the outside of the cassette if necessary. Cut the seal and/or tape on the cassette with a razor blade. Very carefully separate the base from the extension cowl, leaving the filter and backup pad in the base.

(iv) With a rocking motion cut a triangular wedge from the filter using the scalpel. This wedge should be one-sixth to one-fourth of the filter. Grasp the filter wedge with the forceps on the perimeter of the filter which was clamped between the cassette pieces. DO NOT TOUCH the filter with your finger. Place the filter on the glass slide sample side up. Static electricity will usually keep the filter on the slide until it is cleared.

(v) Place the tip of the micropipette containing about 200  $\mu\text{L}$  acetone into the aluminum block. Insert the glass slide into the receiving slot in the aluminum block. Inject the acetone into the block with slow, steady pressure on the plunger while holding the pipette firmly in place. Wait 3 to 5 seconds for the filter to clear, then remove the pipette and slide from the aluminum block.

(vi) Immediately (less than 30 seconds) place 2.5 to 3.5  $\mu\text{L}$  of triacetin on the filter (Note: Waiting longer than 30 seconds will result in increased index of refraction and decreased contrast between the fibers and the preparation. This may also lead to separation of the cover slip from the slide).

(vii) Lower a cover slip gently onto the filter at a slight angle to reduce the possibility of forming air bubbles. If more than 30 seconds have elapsed between acetone exposure and triacetin application, glue the edges of the cover slip to the slide with lacquer or nail polish.

(viii) If clearing is slow, warm the slide for 15 min on a hot plate having a surface temperature of about 50°C to hasten clearing. The top of the hot block can be used if the slide is not heated too long.

(ix) Counting may proceed immediately after clearing and mounting are completed.

(f) Sample Analysis. Completely align the microscope according to the manufacturer's instructions. Then, align the microscope using the following general alignment routine at



the beginning of every counting session and more often if necessary.

(i) Alignment.

(A) Clean all optical surfaces. Even a small amount of dirt can significantly degrade the image.

(B) Rough focus the objective on a sample.

(C) Close down the field iris so that it is visible in the field of view. Focus the image of the iris with the condenser focus. Center the image of the iris in the field of view.

(D) Install the phase telescope and focus on the phase rings. Critically center the rings. Misalignment of the rings results in astigmatism which will degrade the image.

(E) Place the phase-shift test slide on the microscope stage and focus on the lines. The analyst must see line set 3 and should see at least parts of 4 and 5 but, not see line set 6 or 6. A microscope/microscopist combination which does not pass this test may not be used.

(ii) Counting Fibers.

(A) Place the prepared sample slide on the mechanical stage of the microscope. Position the center of the wedge under the objective lens and focus upon the sample.

(B) Start counting from one end of the wedge and progress along a radial line to the other end (count in either direction from perimeter to wedge tip). Select fields randomly, without looking into the eyepieces, by slightly advancing the slide in one direction with the mechanical stage control.

(C) Continually scan over a range of focal planes (generally the upper 10 to 15  $\mu\text{m}$  of the filter surface) with the fine focus control during each field count. Spend at least 5 to 15 seconds per field.

(D) Most samples will contain asbestos fibers with fiber diameters less than 1  $\mu$ . Look carefully for faint fiber images. The small diameter fibers will be very hard to see. However, they are an important contribution to the total count.

(E) Count only fibers equal to or longer than 5  $\mu$ . Measure the length of curved fibers along the curve.

(F) Count fibers which have a length to width ratio of 3:1 or greater.

(G) Count all the fibers in at least 20 fields. Continue counting until either 100 fibers are counted or 100 fields have been viewed; whichever occurs first. Count all the fibers in the final field.

(H) Fibers lying entirely within the boundary of the Walton-Beckett graticule field ((~~shall~~)) receive a count of 1. Fibers crossing the boundary once, having one end within the circle ((~~shall~~)) receive a count of 1/2. Do not count any fiber that crosses the graticule boundary more than once. Reject and do not count any other fibers even though they may be visible outside the graticule area. If a fiber touches the circle, it is considered to cross the line.

(I) Count bundles of fibers as one fiber unless individual fibers can be clearly identified and each individual fiber is clearly not connected to another counted fiber.

(J) Record the number of fibers in each field in a consistent way such that filter non-uniformity can be assessed.

(K) Regularly check phase ring alignment.

(L) When an agglomerate (mass of material) covers more than 25% of the field of view, reject the field and select another. Do not include it in the number of fields counted.

(M) Perform a "blind recount" of 1 in every 10 filter wedges (slides). Re-label the slides using a person other than the original counter.

(g) Fiber Identification. As previously mentioned in (1)(c), PCM does not provide positive confirmation of asbestos fibers. Alternate differential counting techniques should be used if discrimination is desirable. Differential counting may include primary discrimination based on morphology, polarized light analysis of fibers, or modification of PCM data by Scanning Electron or Transmission Electron Microscopy. A great deal of experience is required to routinely and correctly perform differential counting. It is discouraged unless it is legally necessary. Then, only if a fiber is obviously not asbestos should it be excluded from the count. Further discussion of this technique can be found in reference 8(j). If there is a question whether a fiber is asbestos or not, follow the rule: "WHEN IN DOUBT, COUNT."

(h) Analytical Recommendations—Quality Control System.

(i) All individuals performing asbestos analysis must have taken the NIOSH course for sampling and evaluating airborne asbestos or an equivalent course.

(ii) Each laboratory engaged in asbestos counting ((~~shall~~)) must set up a slide trading arrangement with at least two other laboratories in order to compare performance and eliminate inbreeding of error. The slide exchange occurs at least semiannually. The round robin results ((~~shall~~)) must be posted where all analysts can view individual analyst's results.

(iii) Each laboratory engaged in asbestos counting ((~~shall~~)) must participate in the Proficiency Analytical Testing Program, the Asbestos Analyst Registry or equivalent.

(iv) Each analyst ((~~shall~~)) must select and count prepared slides from a "slide bank". These are quality assurance counts. The slide bank ((~~shall~~)) must be prepared using uniformly distributed samples taken from the workload. Fiber densities should cover the entire range routinely analyzed by the laboratory. These slides are counted blind by all counters to establish an original standard deviation. This historical distribution is compared with the quality assurance counts. A counter must have 95% of all quality control samples counted within three standard deviations of the historical mean. This count is then integrated into a new historical mean and standard deviation for the slide. The analyses done by the counters to establish the slide bank may be used for an interim quality control program if the data are treated in a proper statistical fashion.

## 7. Calculations.

(a) Calculate the estimated airborne asbestos fiber concentration on the filter sample using the following formula:

$$AC = \frac{\left[ \left( \frac{FB}{FL} \right) - \left( \frac{BFB}{BFL} \right) \right] \times ECA}{1000 \times FR \times T \times MFA}$$

Where:

- AC = Airborne fiber concentration
- FB = Total number of fibers greater than 5 μm counted
- FL = Total number of fields counted on the filter
- BFB = Total number of fibers greater than 5μm counted in the blank
- BFL = Total number of fields counted on the blank
- ECA = Effective collecting area of filter (385 mm<sup>2</sup> nominal for a 25-mm filter.)
- FR = Pump flow rate (L/min)
- MFA = Microscope count field area (mm<sup>2</sup>). This is 0.00785 mm<sup>2</sup> for a Walton-Beckett Graticule.
- T = Sample collection time (min)
- 1,000 = Conversion of L to cc

Note: The collection area of a filter is seldom equal to 385 mm<sup>2</sup>. It is appropriate for laboratories to routinely monitor the exact diameter using an inside micrometer. The collection area is calculated according to the formula: Area= π(d/2)<sup>2</sup>

(b) Short-cut Calculation

Since a given analyst always has the same interpupillary distance, the number of fields per filter for a particular analyst will remain constant for a given size filter. The field size for that analyst is constant (i.e. the analyst is using an assigned microscope and is not changing the reticle). For example, if the exposed area of the filter is always 385 mm<sup>2</sup> and the size of the field is always 0.00785 mm<sup>2</sup>, the number of fields per filter will always be 49,000. In addition it is necessary to convert liters of air to cc. These three constants can then be combined such that ECA/(1,000 X MFA)= 49. The previous equation simplifies to:

$$AC = \frac{\left( \frac{FB}{FL} \right) - \left( \frac{BFB}{BFL} \right) \times 4}{FR \times T}$$

(c) Recount Calculations. As mentioned in step 13 of 6 (f)(ii), a "blind recount" of 10% of the slides is performed. In

all cases, differences will be observed between the first and second counts of the same filter wedge. Most of these differences will be due to chance alone, that is, due to the random variability (precision) of the count method. Statistical recount criteria enables one to decide whether observed differences can be explained due to chance alone or are probably due to systematic differences between analysts, microscopes, or other biasing factors. The following recount criterion is for a pair of counts that estimate AC in fibers/cc. The criterion is given at the type-I error level. That is, there is 5% maximum risk that we will reject a pair of counts for the reason that one might be biased, when the large observed difference is really due to chance. Reject a pair of counts if:

$$\left| \sqrt{AC_2} - \sqrt{AC_1} \right| > 2.78 \times \left( \sqrt{AC_{avg}} \right) \times CV_F$$

Where:

- AC<sub>1</sub> = lower estimated airborne fiber concentration
- AC<sub>2</sub> = higher estimated airborne fiber concentration
- AC<sub>avg</sub> = average of the two concentration estimates
- CV<sub>FB</sub> = CV for the average of the two concentration estimates

If a pair of counts are rejected by this criterion then, recount the rest of the filters in the submitted set. Apply the test and reject any other pairs failing the test. Rejection shall include a memo to the industrial hygienist stating that the sample failed a statistical test for homogeneity and the true air concentration may be significantly different than the reported value.

(d) Reporting Results. Report results to the industrial hygienist as fibers/cc. Use two significant figures. If multiple analyses are performed on a sample, an average of the results is to be reported unless any of the results can be rejected for cause.

8. References.

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(d) NIOSH Manual of Analytical Methods, 2nd ed., Vol. 1 (DHEW/NIOSH Pub. No. 77-157-A). National Institute for Occupational Safety and Health, Cincinnati, OH, 1977.pp.239-1-239-21.

PERMANENT

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(f) Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite. Final Rule, Federal Register 51: 119 (20 June 1986). pp.22612-22790.

(g) Asbestos, Tremolite, Anthophyllite, and Actinolite, Code of Federal Regulations 1910.1001. 1988. pp 711-752.

(h) Criteria for a Recommended Standard—Occupational Exposure to Asbestos (DHEW/NIOSH Pub. No. HSM 72-10267), National Institute for Occupational Safety and Health NIOSH, Cincinnati, OH, 1972. pp. III-1-III-24.

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(j) Dixon, W.C., Applications of Optical Microscopy in Analysis of Asbestos and Quartz, Analytical Techniques in Occupational Health Chemistry, edited by D.D. Dollberg and A.W. Verstuyft. Wash. D.C.: American Chemical Society, (ACS Symposium Series 120) 1980. pp. 13-41.

9. Quality Control. The OSHA asbestos regulations require each laboratory to establish a quality control program. The following is presented as an example of how the OSHA-SLTC constructed its internal CV curve as part of meeting this requirement. Data for the CV curve shown below is from 395 samples collected during OSHA compliance inspections and analyzed from October 1980 through April 1986. Each sample was counted by 2 to 5 different counters independently of one another. The standard deviation and the CV statistic was calculated for each sample. This data was then plotted on a graph of CV vs. fibers/mm<sup>2</sup>. A least squares regression was performed using the following equation:

$$CV = \text{antilog}_{10}[A(\log_{10}(x))^2 + B(\log_{10}(x)) + C]$$

Where:

x = the number of fibers/mm<sup>2</sup>

Application of least squares gave:

A = 0.182205

B = -0.973343

C = 0.327499

Using these values, the equation becomes:

$$CV = \text{antilog}_{10}[0.182205(\log_{10}(x))^2 - 0.973343(\log_{10}(x)) + 0.327499]$$

10. Sampling Pump Flow Rate Corrections. This correction is used if a difference greater than 5% in ambient temperature and/or pressure is noted between calibration and sampling sites and the pump does not compensate for the differences.

$$Q_{act} = Q_{cal} \times \sqrt{\left(\frac{P_{cal}}{P_{act}}\right) \times \left(\frac{T_{act}}{T_{cal}}\right)}$$

Where:

Q<sub>act</sub> = actual flow rate

Q<sub>cal</sub> = calibrated flow rate (if a rotameter was used, the rotameter value)

P<sub>cal</sub> = uncorrected air pressure at calibration

P<sub>act</sub> = uncorrected air pressure at sampling site

T<sub>act</sub> = temperature at sampling site (K)

T<sub>cal</sub> = temperature at calibration (K)

### 11. Walton-Beckett Graticule

When ordering the Graticule for asbestos counting, specify the exact disc diameter needed to fit the ocular of the microscope and the diameter (mm) of the circular counting area. Instructions for measuring the dimensions necessary are listed:

(a) Insert any available graticule into the focusing eyepiece and focus so that the graticule lines are sharp and clear.

(b) Align the microscope.

(c) Place a stage micrometer on the microscope object stage and focus the microscope on the graduated lines.

(d) Measure the magnified grid length, PL (μm), using the stage micrometer.

(e) Remove the graticule from the microscope and measure its actual grid length, AL (mm). This can be accomplished by using a mechanical stage fitted with verniers, or a jeweler's loupe with a direct reading scale.

(f) Let D = 100 μm. Calculate the circle diameter, d<sub>c</sub> (mm), for the Walton-Beckett graticule and specify the diameter when making a purchase:

$$d_c = \frac{AL \times D}{PL}$$

Example: If PL = 108 μm, AL = 2.93 mm and D = 100 μm, then,

$$d_c = (2.93 \times 100) / 108 = 2.71 \text{ mm}$$

(g) Each eyepiece-objective-reticle combination on the microscope must be calibrated. Should any of the three be changed (by zoom adjustment, disassembly, replacement, etc.), the combination must be recalibrated. Calibration may change if interpupillary distance is changed. Measure the field diameter, D (acceptable range: 100 ± 2 μm) with a stage micrometer upon receipt of the graticule from the manufacturer. Determine the field area (mm<sup>2</sup>).

$$\text{Field Area} = \pi(D/2)^2$$

If  $D = 100 \mu\text{m} = 0.1 \text{ mm}$ , then

$$\text{Field Area} = \pi(0.1 \text{ mm}/2)^2 = 0.00785 \text{ mm}^2$$

The Graticule is available from: Graticules Ltd., Morley Road, Tonbridge TN9 1RN, Kent, England (Telephone 011-44-732-359061). Also available from PTR Optics Ltd., 145 Newton Street, Waltham, MA 02154 [telephone (617) 891-6000] or McCrone Accessories and Components, 2506 S. Michigan Ave., Chicago, IL 60616 [phone (312) 842-7100]. The graticule is custom made for each microscope.

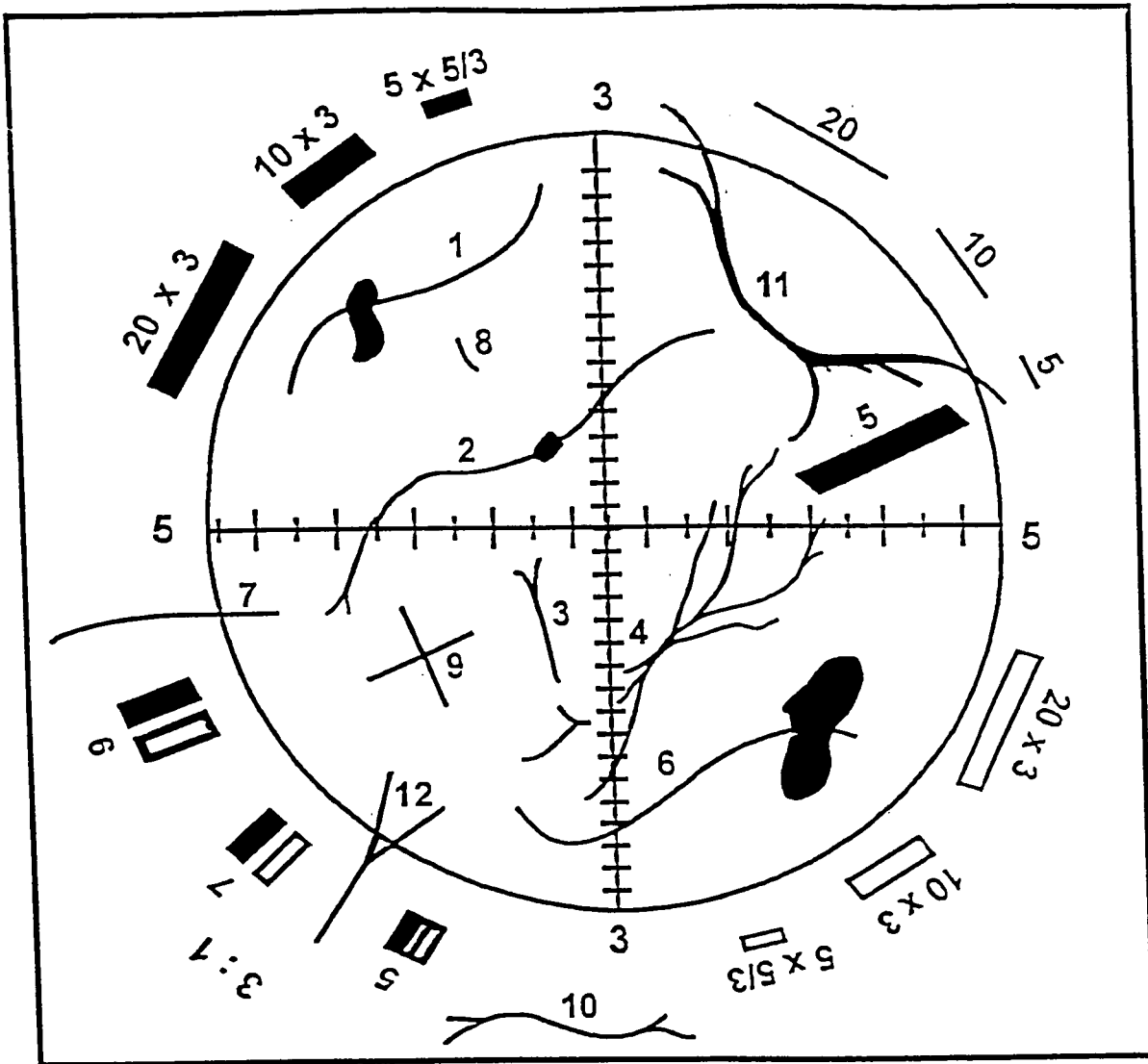


Figure 1: Walton-Beckett Graticule with some explanatory fibers.  
Counts for the Fibers in the Figure

Structure No.	Count	Explanation
1 to 6	1	Single fibers all contained within the circle.
7	1/2	Fiber crosses circle once.
8	0	Fiber too short.
9	2	Two crossing fibers.
10	0	Fiber outside graticule.
11	0	Fiber crosses graticule twice.
12	1/2	Although split, fiber only crosses once.

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

PERMANENT

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-003 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this standard.

"Approved" means approved by the department.

"Asbestos" includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, and actinolite asbestos, and any of these minerals that have been chemically treated and/or altered.

"Asbestos fiber" means asbestos fiber as defined in WAC 296-62-07703 as "fiber."

"Asbestos abatement project" means an asbestos project involving three square feet or three linear feet, or more, of asbestos containing material.

"Asbestos project" includes the construction, demolition, repair, remodeling, maintenance or renovation of any public or private building or structure, mechanical piping equipment or system involving the demolition, removal, encapsulation, salvage, or disposal of material or outdoor activity releasing or likely to release asbestos fibers into the air. ~~((Removal of intact vinyl asbestos tile (VAT), and intact roofing materials is excluded from this definition, unless these items are removed by mechanical methods such as chipping, grinding, sanding, or sawing. Also excluded is any project in which there is a disturbance of asbestos of less than one square foot of total surface area of asbestos containing material (ACM), but this latter exclusion does not pertain to any disturbance of asbestos during a project dealing with pipe insulation. Also excluded from this definition is work on asbestos cement water pipe provided such work is done in accordance with the latest edition of "Recommended Standard Asbestos Cement Pipe Work Practice Procedures and Training Requirements" adopted and published by the Pacific Northwest Section of the American Water Works Association and as approved by the department.))~~

"Certified asbestos contractor" means any partnership, firm, association, corporation or sole proprietorship, registered under chapter 18.27 RCW, that submits a bid, or contracts to remove or encapsulate asbestos for another and is certified by the department to remove or encapsulate asbestos.

"Certificate" means a certificate issued by the department that shall include the name of person awarded the certificate, certificate number, the discipline for which certification was conferred, training and examination dates, the course provider's name and address, and the course provider's telephone number, expiration date, and a statement that the person receiving the certificate has completed the training for asbestos accreditation under TSCA Title II.

"Certified asbestos supervisor" means an individual who is certified by the department under WAC 296-65-012.

"Certified asbestos worker" means an individual certified by the department under WAC 296-65-010.

"Department" means the department of labor and industries.

"Demolition" means the activity of razing a structure which includes the wrecking, removal, or dismantling of any

load-supporting structural member of any facility including any related handling operations.

~~(("Direct on-site supervision" means the supervision of no more than three workers by a certified asbestos supervisor who is physically present at all times at the asbestos project. It includes the authority to immediately correct any deficiencies on the project.))~~

"Director" means the director of the department of labor and industries or the director's designee.

"Emergency project" means a project that was not planned but results from a sudden, unexpected event and includes operations which are necessitated by nonroutine failures of equipment or systems.

"Encapsulation" means the application of an encapsulant to asbestos containing materials to control the release of asbestos fibers into the air. The encapsulation process either creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

"EPA MAP" means the environmental protection agency model accreditation plan for asbestos requirements in 40 CFR Part 763.

"HEPA filtration" means high-efficiency particulate air filtration found in respirators and vacuum systems capable of filtering 0.3 micron particles with 99.97% efficiency.

"Intact" means that the asbestos containing material has not crumbled, been pulverized, or otherwise deteriorated so that it is no longer likely to be bound with its matrix.

"NESHAP" means the National Emission Standards for Hazardous Air Pollutants.

"Owner" means the person who owns any public or private building, structure, facility, or mechanical system, or the remnants thereof, or the agent of such person, but does not include individuals who work on asbestos projects in their own single-family residences, no part of which is used for commercial purposes.

"Person" means any individual, partnership, firm, association, corporation, sole proprietorship, or the state of Washington or its political subdivisions.

"Revocation" means a permanent withdrawal of a certification issued by the department.

"Suspension" means a temporary withdrawal of a certification issued by the department. No suspension shall be less than six months or longer than one year.

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-010 Asbestos worker certification.** (1) For the purposes of this section "individual" means any natural person.

(2) To qualify for an asbestos worker certificate, an individual must do the following:

(a) Successfully complete an approved asbestos worker training course;

(b) Achieve a score of at least seventy percent on a one hundred question multiple choice closed book examination approved by the department but administered by the training course sponsor. If an individual does not pass the examination, then another examination (meeting the above criteria)

may be given after a sufficient period of study. The new examination must not duplicate more than fifty percent of the questions used on prior examinations;

(c) Submit to the department a timely application validated by an approved training course sponsor. To be considered timely, an application must be received by the department ~~((not))~~ no later than sixty days after the completion of the course. In the event that an application is not timely, the individual ~~((shall))~~ will be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty-dollar ~~((assessment shall be charged to take this examination))~~ fee will be assessed when the application is submitted to the department; and

(d) Pay the fee prescribed in WAC 296-65-025.

(3) Individuals ~~((shall))~~ must not perform any asbestos project work prior to issuance of the certificate.

(4) Certificates ~~((shall))~~ will be issued and mailed to the individual applicants and ~~((shall))~~ will be valid for one year from the date of issuance.

(5) Certified asbestos workers shall attend an eight-hour worker refresher course prior to certificate renewal.

(a) The course shall, at a minimum, adequately review the subjects required by WAC 296-65-005, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. ~~((Specific subjects may be required by))~~ The department may require specific subjects.

(b) An application for renewal of the certificate must be validated by the refresher training course instructor.

(c) The refresher course must be taken prior to expiration of the certificate.

(d) ~~((certificate renewal application must be received by the))~~ department must receive the certificate renewal application no later than the expiration date of the current certificate. Applicants missing this renewal deadline ~~((shall))~~ will be required to pass, with a score of seventy percent, an examination administered by the department. A nonrefundable fifty-dollar fee will be charged to take this examination.

(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire basic worker course.

(6) The initial TSCA Title II worker accreditation certificate and the current worker certificate ~~((shall))~~ must be available for inspection at all times at the location of the asbestos project.

(7) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-350 WAC.

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-012 Asbestos supervisor certification.**

(1) For the purposes of this section, "individual" means any natural person.

(2) To qualify for an asbestos supervisor certificate, an individual must meet the following criteria:

(a) Have at least 1600 hours of experience in one or more of the following disciplines:

(i) Asbestos abatement;

(ii) Asbestos project design;

(iii) Consultation on asbestos abatement projects;

(iv) Operations and maintenance program supervision;

(v) Construction project supervision;

(b) Successfully complete an approved asbestos supervisor training course;

(c) Achieve a score of at least seventy percent on a one hundred question multiple choice closed book examination approved by the department but administered by the training course sponsor. If an individual does not pass the examination, then another examination (meeting the above criteria) may be given after a sufficient period of study. The new examination must not duplicate more than fifty percent of the questions used on prior examinations;

(d) Submit to the department a timely application validated by an approved training course sponsor. To be considered timely, an application must be received by the department ~~((not))~~ no later than sixty days after the completion of the course. In the event that an application is not timely, the individual ~~((shall))~~ will be required to pass, with a score of at least seventy percent, an examination administered by the department. A nonrefundable fifty-dollar ~~((assessment shall be charged to take this examination))~~ fee will be assessed when the application is submitted to the department; and

(e) Pay the fee prescribed in WAC 296-65-025.

(3) An individual ~~((shall))~~ must not supervise any asbestos project prior to issuance of the certificate.

(4) Certificates ~~((shall))~~ will be issued and mailed to the individual applicants and ~~((shall))~~ will be valid for one year from the date of issuance.

(5) A certified asbestos supervisor ~~((shall))~~ must attend an eight-hour supervisor refresher course prior to certificate renewal. It ~~((shall))~~ is not ~~((be))~~ necessary to also take a worker refresher course.

(a) The course ~~((shall))~~ must, at a minimum, adequately review the subjects required by WAC 296-65-007, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations. ~~((Specific subjects may be required by the department.))~~ The department may require specific subjects.

(b) An application for renewal of the certificate must be validated by the refresher training course instructor.

(c) The refresher course must be taken prior to expiration of the certificate.

(d) ~~((certificate renewal application must be received by the))~~ department must receive the certificate renewal application no later than the expiration date of the current certificate. Applicants missing this renewal deadline ~~((shall))~~ will be required to pass, with a score of seventy percent, an examination administered by the department. A nonrefundable fifty-dollar fee will be charged to take this examination.

(e) Individuals whose certificates have been expired for more than six months will be required to retake the entire basic supervisor course.

(6) The initial TSCA Title II supervisor accreditation certificate and the current supervisor certificate ~~((shall))~~ must be available for inspection at all times at the location of the asbestos project.

(7) The department may suspend or revoke a certificate as provided in WAC 296-65-050 and chapter 296-350 WAC.

**AMENDATORY SECTION** (Amending WSR 96-05-056, filed 2/16/96, effective 4/1/96)

**WAC 296-65-020 Notification requirements.** (1) Before any person or individual begins an asbestos project as defined in WAC 296-62-07722 and 296-65-003 involving more than forty-eight square feet or ten linear feet, unless the surface area of the pipe is greater than forty-eight square feet, of asbestos containing material, written notification ((shall)) must be provided to the department. Notices ((shall)) must include:

- (a) Name and address of the owner and contractor.
- (b) Description of the facility including size, age, and prior use of the facility.
- (c) Amount of asbestos-containing material to be removed or encapsulated.
- (d) Location of the facility.
- (e) Exact starting and completion dates of the asbestos project, including shifts during which abatement work will be accomplished. These dates must correspond to the dates specified for asbestos removal in the contract. Any change in these dates or work shifts ((shall)) must be communicated to the department by an amended notice filed at the office where the original notice was filed.

• When the starting date or time changes, the amended notice must be filed no later than 5:00 p.m. on the business day prior to the starting date in the original notice and prior to the new starting date.

• When the completion date or time changes, the amended notice must be filed before completion of the project, and within eight hours from when the person learns that the change will occur.

Notice may be filed by facsimile (FAX).

(f) Nature of the project and methods used to remove or encapsulate the material.

(2) Notices must be received by the department no later than ten days prior to the start of the project. Notices ((shall)) must be sent directly to the department of labor and industries regional office having jurisdiction on the project.

(3) The director may waive the prenotification requirement upon written request of an owner for large-scale, ongoing projects. In granting such a waiver, the director ((shall)) will require the owner to provide prenotification if significant changes in personnel, methodologies, equipment, work site, or work procedures occur or are likely to occur. The director ((shall)) will further require annual resubmittal of such notification.

(4) The director, upon review of an owner's reports, work practices, or other data available as a result of inspections, audits, or other authorized activities, may reduce the size threshold for prenotification required by this section. Such a change ((shall)) will be based on the director's determination that significant problems in personnel, methodologies, equipment, work site, or work procedures are creating the potential for violations of this chapter.

(5) Emergency projects which disturb or release asbestos into the air ((shall)) must be reported to the department within

three working days after commencement of the project in the manner otherwise required under this chapter. The employees, the employees' collective bargaining representative or employee representative, if any, and other persons at the project area ((shall)) must be notified of the emergency as soon as possible by the person undertaking the emergency project. A notice describing the nature of the emergency project ((shall)) must be clearly posted adjacent to the work area.

(6) Incremental phasing in the conduct or design of asbestos projects or otherwise conducting or designing asbestos projects of a size less than the threshold exemption specified in subsection (1) of this section, with the intent of avoiding the notification requirements, is a violation of this chapter.

**AMENDATORY SECTION** (Amending Order 89-10, filed 10/10/89, effective 11/24/89)

**WAC 296-65-025 Fees.** (1) A nonrefundable administrative fee of twenty-five dollars ((shall)) will be assessed for each initial, replacement, or renewal asbestos worker certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(2) A nonrefundable administrative fee of thirty-five dollars ((shall)) will be assessed for each initial, replacement, or renewal asbestos supervisor certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from any approved training course instructor or directly from the department.

(3) A nonrefundable administrative fee of one thousand dollars ((shall)) will be assessed for each initial or renewal contractor certificate application. The fee (check or money order) must accompany the certificate application and be made payable to the department. An application form may be obtained from the department.

Note: In circumstances where it is necessary to coordinate an expiration date with the date of expiration of a contractor registration issued under chapter 18.27 RCW, certificates may be valid for less than one year. In such circumstances, the certificate fee prescribed in WAC 296-65-025 ((shall)) will be prorated accordingly for the initial application only.

(4) A nonrefundable administrative fee of one thousand dollars ((shall)) will be assessed for each initial and renewal application for training course approval. A check or money order ((shall)) must accompany any application made under the provisions of WAC 296-65-015.

**AMENDATORY SECTION** (Amending WSR 97-19-014, filed 9/5/97, effective 11/5/97)

**WAC 296-65-030 Methods of compliance.** (1) Before submitting a bid or working on an asbestos abatement project, any person or individual ((shall)) must obtain an asbestos contractor certificate as provided in WAC 296-65-017 and ((shall)) must have in its employ at least one certified



asbestos supervisor responsible for supervising all asbestos projects undertaken by the contractor.

(2) A certified asbestos supervisor will not be required on asbestos projects involving less than three square feet or three linear feet of asbestos-containing material unless the surface area of the pipe is greater than three square feet. A certified asbestos supervisor is required for all Class I and II asbestos work in accordance with WAC 296-62-07722 (4)((a)).

(3) No employee or other individual is eligible to do work or supervise an asbestos project without being issued a certificate by the department.

(a) Employees performing Class I or Class II asbestos work ~~((shall))~~ must be certified asbestos workers ~~((except when excluded))~~ as specified in WAC 296-62-07722 ~~((3)(b))~~.

(b) Employees performing Class III or Class IV asbestos work specified by WAC 296-62-07722 as an asbestos project shall be certified asbestos workers.

(Note: ~~Exceptions to certification of asbestos work not considered to be an asbestos project are found in WAC 296-65-003 in the definition of "asbestos project," and in WAC 296-62-07722. If intact asbestos-containing materials or PACM are removed according to the required work practices, controls, respiratory protection, training and related provisions of WAC 296-62-077, certification is not required as specified in the exceptions. If asbestos-containing material or PACM is not intact, or becomes nonintact during removal, the asbestos work is considered as an asbestos project and the certification requirements of chapter 296-65 WAC apply.~~)

(4) No person may assign any employee, contract with, or permit any individual, to ~~((remove or encapsulate asbestos))~~ work on an asbestos project as specified in WAC 296-62-07722 in any facility without the project being performed by a certified asbestos worker ~~((and under the direct, on-site supervision of a certified asbestos supervisor))~~.

(5) ~~((In cases in which))~~ A certified asbestos supervisor must provide direct, on-site supervision for an asbestos project. When an employer conducts an asbestos abatement project in its own facility by its own certified employees, supervision ~~((can))~~ may be performed in the regular course of a certified asbestos supervisor's duties. Asbestos workers must have access to and be under the control of certified asbestos supervisors throughout the duration of the project.

(6) Any construction, renovation, remodeling, maintenance, repair, or demolition which was started without meeting the requirements of this section ~~((shall))~~ must be halted immediately and cannot be resumed before meeting such requirements.

**WSR 99-17-031**  
**PERMANENT RULES**  
**DEPARTMENT OF LICENSING**

[Filed August 11, 1999, 12:37 p.m.]

Date of Adoption: August 11, 1999.

Purpose: Clarify definitions to help avoid confusion.

Citation of Existing Rules Affected by this Order:

Amending WAC 308-10-010.

Statutory Authority for Adoption: RCW 46.01.110.

Adopted under notice filed as WSR 99-12-026 on May 25, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 11, 1999

Walt Fahrner

Rules Coordinator

AMENDATORY SECTION (Amending WSR 96-05-036, filed 2/15/96, effective 3/17/96)

**WAC 308-10-010 Definitions.** (1) The definitions set forth in RCW 42.17.020 shall apply to this chapter.

(2) The "department of licensing" is the agency created pursuant to chapter 46.01 RCW. The department of licensing shall hereinafter be referred to as the department. Where appropriate, the term department also refers to the staff and employees of the department of licensing.

(3) "Director" means the director of the department of licensing as appointed by the governor pursuant to RCW 46.01.090.

(4) "Raw data" means facts, symbols, or observations which have all of the following characteristics:

- (a) They have not been processed, edited or interpreted.
- (b) They are unevaluated and unorganized.

(c) The fact, symbol, or observation does not, of itself, impart meaning to a potential user or fulfill a recognized need.

(d) To be useable the fact, symbol, or observation must go through some transformation process.

(5) "Information" means raw data that are organized, evaluated and interpreted to impart meaning to potential users and fulfill a recognized need.

(6) "Listing (list)" means ~~((a))~~ an item-by-item series of ~~((items of any kind including))~~ names, figures, words or numbers ~~((no matter what the arrangement or purpose. When applied to the release of department record information it means the names of two or more individuals contained in:))~~ written or printed one after the other.

- ~~((-~~ Data processing magnetic tapes
- Data processing print outs 1, 2, 3, or 4 part utility paper or copies of such print outs
- Data processing print outs in the form of labels

PERMANENT

- Computer data bases
- Any form of writing
- Microfiche/microfilm.)

(7) "Tabulation" means the systematic arrangement of facts, statistics, and similar information, except the names of individuals, in column or table format.

(8) "Individual" means a natural person.

(9) "Commercial purpose" means using or intending to use information (~~obtained, to contact or personally affect an individual identified on a list to facilitate~~) for the purpose of facilitating a profit expecting business activity.

(10) "Profession," when applied to department records, or the release of department record information, means any state regulated business, profession or occupation administered by the assistant director, business and professions division.

**WSR 99-17-034**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-118—Filed August 11, 1999, 4:04 p.m.]

Date of Adoption: August 6, 1999.

Purpose: To provide recreational opportunity.

Citation of Existing Rules Affected by this Order:

Repealing WAC 232-28-422, 232-16-680, 232-12-137, and 232-28-20401; and amending WAC 232-28-264, 232-16-140, 232-12-068, 232-12-264, 232-28-281, 232-12-024, 232-12-141, 232-12-261, 232-12-134, 232-28-259, and 232-12-291.

AMENDATORY SECTION (Amending WSR 99-10-102, filed 5/5/99, effective 6/5/99)

**WAC 232-28-264 1998-99 and 1999-2000 Official hunting hours and small game seasons.**

1998-99 OFFICIAL HUNTING HOURS  
 FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS\*  
 September 1, 1998 to January 31, 1999

Dates (Inclusive)	Western Washington			Eastern Washington		
	A.M.	to	P.M.	A.M.	to	P.M.
Daylight Savings Time						
Tues. Sept. 1	-	Sun. Sept. 6	6:00	7:45	5:50	7:35
Mon. Sept. 7	-	Sun. Sept. 13	6:10	7:35	6:00	7:20
Mon. Sept. 14	-	Sun. Sept. 20	6:20	7:20	6:05	7:05
Mon. Sept. 21	-	Sun. Sept. 27	6:30	7:05	6:15	6:50
Mon. Sept. 28	-	Sun. Oct. 4	6:40	6:50	6:25	6:35
Mon. Oct. 5	-	Sun. Oct. 11	6:45	6:35	6:25	6:25
Mon. Oct. 12	-	Sun. Oct. 18	6:55	6:20	6:45	6:10
Mon. Oct. 19	-	Sat. Oct. 24	7:05	6:10	6:55	6:00
Pacific Standard Time						
		Sun. Oct. 25	6:10	5:00	6:00	4:50

Statutory Authority for Adoption: RCW 77.12.040.  
Adopted under notice filed as WSR 99-13-194 on June 23, 1999.

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 11, Repealed 4.

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.

August 10, 1999

Debbie Nelson

for Kelly D. White, Chairman  
Fish and Wildlife Commission

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-422	1998-99 Migratory waterfowl seasons and regulations.
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PERMANENT

1998-99 OFFICIAL HUNTING HOURS  
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS\*  
September 1, 1998 to January 31, 1999

Dates (Inclusive)					Western Washington from			Eastern Washington from		
					A.M.	to	P.M.	A.M.	to	P.M.
Mon.	Oct. 26	-	Sun.	Nov. 1	6:20		4:55	6:05		4:45
Mon.	Nov. 2	-	Sun.	Nov. 8	6:30		4:45	6:15		4:35
Mon.	Nov. 9	-	Sun.	Nov. 15	6:40		4:35	6:30		4:25
Mon.	Nov. 16	-	Sun.	Nov. 22	6:50		4:30	6:40		4:15
Mon.	Nov. 23	-	Sun.	Nov. 29	7:00		4:25	6:50		4:10
Mon.	Nov. 30	-	Sun.	Dec. 6	7:10		4:20	6:55		4:10
Mon.	Dec. 7	-	Sun.	Dec. 13	7:15		4:20	7:05		4:05
Mon.	Dec. 14	-	Sun.	Dec. 20	7:20		4:20	7:10		4:10
Mon.	Dec. 21	-	Sun.	Dec. 27	7:25		4:20	7:15		4:10
Mon.	Dec. 28	-	Sun.	Jan. 3	7:25		4:30	7:15		4:15
Mon.	Jan. 4	-	Sun.	Jan. 10	7:25		4:35	7:15		4:25
Mon.	Jan. 11	-	Sun.	Jan. 17	7:25		4:45	7:10		4:30
Mon.	Jan. 18	-	Sun.	Jan. 24	7:20		4:55	7:05		4:40
Mon.	Jan. 25	-	Sat.	Jan. 31	7:10		5:00	7:00		4:50

\*These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.
- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor, (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

1999-2000 OFFICIAL HUNTING HOURS  
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS\*  
September 1, 1999 to January 31, 2000

Dates (Inclusive)					Western Washington from			Eastern Washington from		
					A.M.	to	P.M.	A.M.	to	P.M.
Daylight Savings Time										
Wed.	Sept. 1	-	Sun.	Sept. 5	6:00		7:45	5:45		7:35
Mon.	Sept. 6	-	Sun.	Sept. 12	6:05		7:35	5:50		7:20
Mon.	Sept. 13	-	Sun.	Sept. 19	6:15		7:20	6:05		7:10
Mon.	Sept. 20	-	Sun.	Sept. 26	6:25		7:10	6:15		6:50
Mon.	Sept. 27	-	Sun.	Oct. 3	6:35		6:50	6:25		6:40
Mon.	Oct. 4	-	Sun.	Oct. 10	6:45		6:40	6:35		6:25
Mon.	Oct. 11	-	Sun.	Oct. 17	6:50		6:25	6:45		6:15
Mon.	Oct. 18	-	Sun.	Oct. 24	7:05		6:15	6:55		6:00
Mon.	Oct. 25	-	Sat.	Oct. 30	7:15		6:00	7:05		5:45
Pacific Standard Time										
Sun.	Oct. 31	-	Sun.	Nov. 7	6:25		4:45	6:15		4:35
Mon.	Nov. 8	-	Sun.	Nov. 14	6:35		4:40	6:25		4:25

PERMANENT

1999-2000 OFFICIAL HUNTING HOURS  
FOR MIGRATORY GAME BIRDS, UPLAND BIRDS, AND WILD TURKEYS\*  
September 1, 1999 to January 31, 2000

Dates (Inclusive)				Western Washington			Eastern Washington		
				A.M.	to	P.M.	A.M.	to	P.M.
Mon.	Nov. 15	-	Sun. Nov. 21	6:50		4:30	6:35		4:20
Mon.	Nov. 22	-	Sun. Nov. 28	7:00		4:25	6:45		4:10
Mon.	Nov. 29	-	Sun. Dec. 5	7:05		4:20	6:50		4:10
Mon.	Dec. 6	-	Sun. Dec. 12	7:10		4:20	7:00		4:05
Mon.	Dec. 13	-	Sun. Dec. 19	7:20		4:20	7:05		4:05
Mon.	Dec. 20	-	Sun. Dec. 26	7:25		4:25	7:10		4:10
Mon.	Dec. 27	-	Sun. Jan. 2	7:30		4:25	7:15		4:15
Mon.	Jan. 3	-	Sun. Jan. 9	7:30		4:35	7:15		4:20
Mon.	Jan. 10	-	Sun. Jan. 16	7:25		4:40	7:10		4:30
Mon.	Jan. 17	-	Sun. Jan. 23	7:20		4:50	7:05		4:45
Mon.	Jan. 24	-	Mon. Jan. 31	7:15		5:00	7:00		4:50

\*These are lawful hunting hours (one-half hour before sunrise to sunset) for migratory game birds (duck, goose, coot, snipe, mourning dove, and band-tailed pigeon); upland birds (pheasant, quail, partridge); and turkey during established seasons.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. in all areas.
- 2) Clark (except areas south of the Washougal River), Cowlitz, Grays Harbor, (except areas north of U.S. Highway 12 and west of U.S. Highway 101), Pacific, and Wahkiakum counties - Goose hunting hours are 8:00 a.m. to 4:00 p.m., except one-half hour before sunrise to sunset during the September-Canada goose season and 7:00 a.m. to 4:00 p.m. during the late goose season.
- 3) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

1998-1999 OFFICIAL HUNTING HOURS  
FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)\*  
September 1, 1998 to January 31, 1999

Dates (Inclusive)				Western Washington			Eastern Washington		
				A.M.	to	P.M.	A.M.	to	P.M.
Daylight Savings Time									
Tues.	Sept. 1	-	Sun. Sept. 6	6:00		8:15	5:50		8:05
Mon.	Sept. 7	-	Sun. Sept. 13	6:10		8:05	6:00		7:50
Mon.	Sept. 14	-	Sun. Sept. 20	6:20		7:50	6:05		7:35
Mon.	Sept. 21	-	Sun. Sept. 27	6:30		7:35	6:15		7:20
Mon.	Sept. 28	-	Sun. Oct. 4	6:40		7:20	6:25		7:05
Mon.	Oct. 5	-	Sun. Oct. 11	6:45		7:05	6:25		6:55
Mon.	Oct. 12	-	Sun. Oct. 18	6:55		6:50	6:45		6:40
Mon.	Oct. 19	-	Sat. Oct. 24	7:05		6:40	6:55		6:30
Pacific Standard Time									
			Sun. Oct. 25	6:10		5:30	6:00		5:20
Mon.	Oct. 26	-	Sun. Nov. 1	6:20		5:25	6:05		5:15
Mon.	Nov. 2	-	Sun. Nov. 8	6:30		5:15	6:15		5:05
Mon.	Nov. 9	-	Sun. Nov. 15	6:40		5:05	6:30		4:55
Mon.	Nov. 16	-	Sun. Nov. 22	6:50		5:00	6:40		4:45
Mon.	Nov. 23	-	Sun. Nov. 29	7:00		4:55	6:50		4:40

PERMANENT

1998-1999 OFFICIAL HUNTING HOURS  
 FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)\*  
 September 1, 1998 to January 31, 1999

Dates (Inclusive)					Western Washington		Eastern Washington	
					from	to	from	to
					A.M.	P.M.	A.M.	P.M.
Mon.	Nov. 30	-	Sun.	Dec. 6	7:10	4:50	6:55	4:40
Mon.	Dec. 7	-	Sun.	Dec. 13	7:15	4:50	7:05	4:35
Mon.	Dec. 14	-	Sun.	Dec. 20	7:20	4:50	7:10	4:40
Mon.	Dec. 21	-	Sun.	Dec. 27	7:25	4:50	7:15	4:40
Mon.	Dec. 28	-	Sun.	Jan. 3	7:25	5:00	7:15	4:45
Mon.	Jan. 4	-	Sun.	Jan. 10	7:25	5:05	7:15	4:55
Mon.	Jan. 11	-	Sun.	Jan. 17	7:25	5:15	7:10	5:00
Mon.	Jan. 18	-	Sun.	Jan. 24	7:20	5:25	7:05	5:10
Mon.	Jan. 25	-	Sat.	Jan. 31	7:10	5:30	7:00	5:20

\* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for all game animals and game birds (except duck, goose, coot, snipe, mourning dove, band-tailed pigeon, pheasant, quail, partridge and turkey) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

1999-2000 OFFICIAL HUNTING HOURS  
 FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)\*  
 September 1, 1999 to January 31, 2000

Dates (Inclusive)					Western Washington		Eastern Washington	
					from	to	from	to
					A.M.	P.M.	A.M.	P.M.
Daylight Savings Time								
Wed.	Sept. 1	-	Sun.	Sept. 5	6:00	8:15	5:45	8:05
Mon.	Sept. 6	-	Sun.	Sept. 12	6:05	8:05	5:50	7:50
Mon.	Sept. 13	-	Sun.	Sept. 19	6:15	7:50	6:05	7:40
Mon.	Sept. 20	-	Sun.	Sept. 26	6:25	7:40	6:15	7:20
Mon.	Sept. 27	-	Sun.	Oct. 3	6:35	7:20	6:25	7:10
Mon.	Oct. 4	-	Sun.	Oct. 10	6:45	7:10	6:35	6:55
Mon.	Oct. 11	-	Sun.	Oct. 17	6:50	6:55	6:45	6:45
Mon.	Oct. 18	-	Sun.	Oct. 24	7:05	6:45	6:55	6:30
Mon.	Oct. 25	-	Sat.	Oct. 30	7:15	6:30	7:05	6:15
Pacific Standard Time								
Sun.	Oct. 31	-	Sun.	Nov. 7	6:25	5:15	6:15	5:05
Mon.	Nov. 8	-	Sun.	Nov. 14	6:35	5:10	6:25	4:55
Mon.	Nov. 15	-	Sun.	Nov. 21	6:50	5:00	6:35	4:50
Mon.	Nov. 22	-	Sun.	Nov. 28	7:00	4:55	6:45	4:40
Mon.	Nov. 29	-	Sun.	Dec. 5	7:05	4:50	6:50	4:40
Mon.	Dec. 6	-	Sun.	Dec. 12	7:10	4:50	7:00	4:35
Mon.	Dec. 13	-	Sun.	Dec. 19	7:20	4:50	7:05	4:35
Mon.	Dec. 20	-	Sun.	Dec. 26	7:25	4:55	7:10	4:40
Mon.	Dec. 27	-	Sun.	Jan. 2	7:30	4:55	7:15	4:45

PERMANENT

1999-2000 OFFICIAL HUNTING HOURS  
 FOR GAME ANIMALS & GAME BIRDS (EXCEPT MIGRATORY, UPLAND GAME BIRDS, AND WILD TURKEYS)\*  
 September 1, 1999 to January 31, 2000

Dates (Inclusive)					Western Washington from		Eastern Washington from	
	A.M.	to	P.M.	A.M.	to	P.M.		
Mon. Jan. 3 - Sun. Jan. 9	7:30		5:05	7:15		4:50		
Mon. Jan. 10 - Sun. Jan. 16	7:25		5:10	7:10		5:00		
Mon. Jan. 17 - Sun. Jan. 23	7:20		5:20	7:05		5:15		
Mon. Jan. 24 - Mon. Jan. 31	7:15		5:30	7:00		5:20		

\* These are lawful hunting hours (one-half hour before sunrise to one-half hour after sunset) for all game animals and game birds (except duck, goose, coot, snipe, mourning dove, band-tailed-pigeon, pheasant, quail, partridge and turkey) during established seasons.

Exceptions:

- 1) Bobcat and raccoon are exempt from hunting hour restrictions during established bobcat and raccoon seasons except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 2) Hunting hours for falconry seasons (except migratory game bird seasons) are exempt from these hunting hours, except on designated pheasant release sites.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season. The use of hounds to hunt black bear, cougar, and bobcat is prohibited year around.

BOBCAT

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED in GMU 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

RACCOON

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED on Long Island within Willapa National Wildlife Refuge and in GMU 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

FOX

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, except CLOSED within the exterior boundaries of the Mount Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 407, 410, and 522.

Sept. 8, 1998-Mar. 15, 1999; Sept. 7, 1999-Mar. 15, 2000.

COYOTE

Bag and Possession Limits: No Limit

OPEN SEASON: State-wide, year around except CLOSED from September 15 to November 30 in the Pasayten Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 304, and 448 within the external boundaries of the Mount Baker-Snoqualmie, Okanogan, and Wenatchee National Forests. However, coyote may only be killed and/or pursued with hounds during the following period: Sept. 8, 1998-Mar. 15,

1999; Sept. 7, 1999-Mar. 15, 2000; except coyote may be hunted year around with hounds in Grant, Adams, Benton, and Franklin counties. GMU 522 is closed to coyote hunting.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

State-wide: Sept. 1-Dec. 31, 1999; except CLOSED in GMU 522.

PTARMIGAN

Season closed state-wide.

Upland Birds

Eastern Washington

Ring-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Youth Season: September 25 and 26, 1999. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 9-Dec. 31, 1999.

Chukar Partridge

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

Regular Season: Oct. 1, 1999-Jan. 9, 2000.

Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

Regular Season: Oct. 1, 1999-Jan. 9, 2000.

PERMANENT

Mountain QuailSeason closed throughout eastern WashingtonValley and Bobwhite Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time, straight or mixed bag.

Youth Season: September 25 and 26, 1999. Open only to youth hunters accompanied by an adult at least 18 years old.

Regular Season: Oct. 9, 1999-Jan. 9, 2000.

Yakima Indian Reservation: The 1997-98, 1998-99, 1999-2000 Upland Bird Seasons within the Yakima Indian Reservation shall be the same as the season established by the Yakima Indian Nation.

Western WashingtonRing-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day, with a total of fifteen (15) pheasants in possession at any time.

Early season: Sept. 25-Oct. 1, 1999 for youth hunters and hunters 65 years of age or older. Juvenile hunters must be accompanied by an adult at least 18 years old.

Regular season: Oct. 2-Nov. 30, 1999; 8 a.m. to 4 p.m.; except Dungeness Recreation site (Clallam County) starting Oct. 16, 1999; except CLOSED in GMU 522.

A Western Washington Pheasant Permit is required to hunt pheasant in western Washington, in addition to a current small game hunting license. Pheasant kills must be recorded. Upon taking a pheasant, the holder of a Western Washington Pheasant Permit must immediately enter on the corresponding space the date and location of kill.

There are three options available for the 1999 hunting season:

- (1) Full Season Option: Allows the harvest of ten (10) pheasants.
- (2) Youth option: Allows the harvest of six (6) pheasants by youth hunters.
- (3) 3-Day Option: Allows the harvest of four (4) pheasants during three consecutive days.

Every person possessing a Western Washington Pheasant Permit must by December 31, return the permit to the Department of Fish and Wildlife. The number of permits purchased per year is not limited.

A hunter shall select one valid option at the time they purchase their Western Washington Pheasant Permit.

Special Restriction: Non-toxic shot must be used in a shotgun to hunt pheasant on the Skagit Wildlife Area. Western Washington pheasant hunters must choose to hunt on either odd-numbered or even-numbered weekend days from 8:00 - 10:00 a.m. at all units of Lake Terrell, Tennant Lake, Snoqualmie, Skagit, Skookumchuck, and Scatter Creek Wildlife Areas, and must indicate their choice on the western Wash-

ington pheasant permit by choosing "odd" or "even." It is unlawful to purchase an additional permit until the ten pheasant allowed on the current permit are taken. Hunters that select the three day option, hunters 65 years of age or older, and youth hunters may hunt during either weekend day morning. Youth hunters must be accompanied by an adult at least 18 years old. Adults must have an appropriately marked pheasant permit.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Oct. 9-Nov. 30, 1999; except CLOSED in GMU 522.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) valley or bobwhite quail per day, with a total of thirty (30) valley or bobwhite quail in possession at any time; straight or mixed bag.

Oct. 9-Nov. 30, 1999; except CLOSED in GMU 522.

TURKEY

## Spring Season

Gobblers and Turkeys with Visible Beards Only.

State-wide: April 15-May 15, ((1999)) 2000.

## Fall Season

## Either Sex

Klickitat and Skamania counties: Nov. 25-29, 1999.

Asotin, Columbia, Garfield, and Walla Walla counties: Nov. 25-29, 1999. Only hunters that successfully complete the Department of Fish and Wildlife's Advanced Hunter Education (AHE) program will be eligible to hunt turkeys during this season. A certification card will be issued to all AHE graduates and must be in possession in addition to a valid small game hunting license and turkey tag while hunting in this area.

## OFFICIAL HUNTING HOURS/BAG LIMITS:

Bag and Possession Limit: One turkey per day, with a total of three (3) per year; only one turkey from each subspecies may be killed per year ((in 1999)).

If a hunter intends to hunt for turkey, one turkey tag option must be selected when a small game license is purchased. If the state-wide tag option is selected, the person is precluded from purchasing any other turkey tag. The Eastern, Rio Grande and Merriam tags must be purchased before April 14 each year. The state-wide tag may be purchased at any time.

## TAG OPTIONS:

- (1) State-wide: Allows the harvest of one turkey of any subspecies during a calendar year.
- (2) Eastern: Allows the harvest of one turkey during a calendar year in any western Washington county except Skamania and Klickitat.

- (3) Rio Grande: Allows the harvest of one turkey during a calendar year in any eastern Washington county except Ferry, Klickitat, Pend Oreille or Stevens.
- (4) Merriams: Allows the harvest of one turkey during a calendar year in Ferry, Klickitat, Pend Oreille, Skamania, or Stevens Counties.

Hunting Hours: One-half hour before sunrise to sunset during spring and fall seasons.

**SPECIAL REGULATIONS:**

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Fish and Wildlife within ten days after taking a turkey.
4. It is unlawful to use dogs to hunt turkeys.

**SAGE AND SHARP-TAILED GROUSE**

Season Closed State-wide.

**BIRD DOG TRAINING SEASON**

Aug. 1, 1998-Mar. 15, 1999; and Aug. 1, 1999-Mar. 15, 2000, except from Oct. 2-Nov. 30, 1999, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites. Dog training is prohibited from Jan. 15 - Mar. 15 on the Shillapoo Wildlife Area (Region 5), except on posted portions open for year around dog training.

Dog training may be conducted year around on posted portions of: Region One - Espanola (T 24 N, R 40 E, E 1/2 of Sec. 16); Region Two - Wahluke Wildlife Area north of Highway 24; Region Three - South L.T. Murray Wildlife Area; Region Four - Fort Lewis Military Base, Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; Region Five - Shillapoo/Vancouver Lake Wildlife Area; Region Six - Scatter Creek Wildlife Area.

**HIP REQUIREMENTS:**

All hunters age 16 and over of migratory game birds (duck, goose, coot, snipe, mourning dove) are required to complete a Harvest Information Program (HIP) survey form at a license dealer, and possess a Washington Migratory Bird Stamp as evidence of compliance with this requirement when hunting migratory game birds. Youth hunters are required to complete a HIP survey form, and possess a free Washington Youth Migratory Bird Authorization as evidence of compliance with this requirement when hunting migratory game birds.

**CANADA GOOSE SEPTEMBER SEASON**

Bag and Possession Limits: Three (3) Canada geese per day with a total of six (6) in possession at any time.

State-wide: September 7-((43)) 12, 1999.

**BAND-TAILED PIGEON**

Closed Season State-wide.

**MOURNING DOVE**

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

State-wide: Sept. 1-15, 1999; except CLOSED in GMU 522.

**RABBIT AND HARE**

Cottontail, Snowshoe Hare (or Washington Hare), and Jack-rabbit.

Bag and Possession Limits: Five (5) rabbits or hares per day, with a total of fifteen (15) in possession at any time; straight or mixed bag.

State-wide: Sept. 1, 1998-Mar. 15, 1999; Sept. 1, 1999-Mar. 15, 2000; except CLOSED in GMU 522 and CLOSED Jan. 15-Mar. 15 on Shillapoo Wildlife Area (Region 5).

**CROWS**

Bag and possession limits: No limits

State-wide: Oct. 1, 1998-Jan. 31, 1999; Oct. 1, 1999-Jan. 31, 2000.

**FALCONRY SEASONS**

**Upland Game Bird - Falconry**

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

State-wide: Sept. 1, 1998-Mar. 15, 1999; Sept. 1, 1999-Mar. 15, 2000.

**Mourning Dove - Falconry**

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, ducks, and geese during established seasons.

State-wide: Sept. 1-15 and Oct. 1-Dec. 31, 1999.

**Cottontail and Hare - Falconry**

Daily bag: Five (5) rabbits or hares per day; straight or mixed bag.

State-wide: Aug. 1, 1998-Mar. 15, 1999; Aug. 1, 1999-Mar. 15, 2000, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

**AMENDATORY SECTION** (Amending Temporary Regulation 229, filed 9/15/64)

**WAC 232-16-140 ((~~Equalizing Reservoir~~)) Banks Lake Game Reserve.** ((~~It shall be unlawful to hunt game animals, game birds or to trap fur-bearing animals within said area:~~

That part of Twp. 26N., Range 28E.W.M. lying south of the east-west center line of the north half of Sections 13 and 14, west of Secondary State Highway No. 2-F and east of the west wall of the Grand Coulee; and, that part of Sections 18 and 19 of Twp. 26 north, Range 29E.W.M. lying west of Sec-



ondary State Highway No. 2-F and south of the east-west center line of the north half of Section 18 AND THAT part of Twp. 25N., Range 28E.W.M. lying north of the east-west center lines of Sections 14, 15 and 16 of said Township and west of State Highway 2-F and east of the west wall of the Coulee.) In Township 25N, Range 28E, those parts of sections 9, 10, and 11 and the north 1/2 of sections 14, 15, and 16, lying between State Highway 155 and the west wall of Grand Coulee.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-16-680 Lenice Lake Game Reserve.

**AMENDATORY SECTION** (Amending Order 98-152, filed 8/13/98, effective 9/13/98)

**WAC 232-12-068 Nontoxic shot requirement for waterfowl, coot, and snipe hunting.** It is unlawful to possess shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin shot (nominally 97 parts bismuth:3 parts tin with <1 percent residual lead), tungsten-iron shot (nominally 40 parts tungsten:60 parts iron with <1 percent residual lead), ((~~or~~)) tungsten-polymer shot (nominally 95.5 parts tungsten:4.5 parts polymer with <1 percent residual lead), tungsten-matrix shot (nominally 95.9 parts tungsten:4.1 parts polymer), or tin shot (99.9 percent tin with <1 percent residual lead) when hunting for waterfowl, coot, or snipe.

**AMENDATORY SECTION** (Amending Order 165, filed 6/1/81)

**WAC 232-12-264 Baiting of game birds—Unlawful.** It is unlawful to hunt game birds by the aid of baiting, or in a baited area or area posted as an upland bird feeding site. As used in this section "baiting" or "baited area" means the placing, exposing, depositing, distributing or scattering of corn, wheat or other grain, or feed so as to constitute for such birds a lure or attraction to, on or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such grain or other feed. This shall not prohibit hunting of game birds, on or over standing crops, flooded crop lands, grain crops properly harvested on the field where grown or grains found scattered as the result of normal agricultural planting or harvesting.

**AMENDATORY SECTION** (Amending WSR 99-10-102, filed 5/5/99, effective 6/5/99)

**WAC 232-28-281 1999-2000 Elk general seasons and 1999-2000 special permits. Bag Limit:** One (1) elk per hunter during the 1999 hunting season.

**Hunting Method:** Elk hunters must select only one of the hunting methods (modern firearm, archery, or muzzleloader).

**Elk Tag Areas:** Elk hunters must choose one of the five elk hunting areas (Blue Mountains, Northeastern Washington, Yakima, Colockum, or Western Washington) to hunt in and buy the appropriate tag for that area.

**Any Bull Elk Seasons:** Open only to the taking of male elk with visible antlers (bull calves are illegal).

**Spike Bull Restrictions:** Bull elk taken in these GMUs must have at least one antler that is a spike above the ears (does not branch above ears). An animal with branched antlers on both sides is illegal but an animal with a spike on one side is legal in spike only units.

**Spike Only GMUs:** 145-154, 162-186, 302, 314-329, and 335-371

**3 Point Restriction:** Legal bull elk taken must have at least 3 antler points on one side only. Antler points may include eye guards, but antler points on the lower half of the main beam must be at least four (4) inches long measured from antler tip to nearest edge of beam; all other antler points must be at least one (1) inch long. Antler restrictions apply to all hunters during any open season.

**3 Point GMUs:** All of western Washington except for GMUs 454, 564, 568, 574, 578, and 588.

**GMUs Closed to Elk Hunting:** 418 (Nooksack), and 437 (Sauk) except for ML Elk Area 941, 485 (Green River), 522 (Loo-wit) and 636 (Skokomish).

**Special Permits:** Only hunters with elk tag prefix identified in the Special Elk Permits tables may apply for special bull or antlerless permits. Please see permit table for tag eligibility. Hunters drawn for a special permit may hunt only with a weapon in compliance with their tag and during the dates listed for the hunt.

**Harvest Report Card:** Successful hunters must fill out and return a Game Harvest Report Card within 10 days after taking an elk.

#### Elk Tag Areas

**Blue Mountains:** GMUs 145-186. Elk hunting by permit only in GMU 157.

BA - Blue Mountains Archery Tag  
BF - Blue Mountains Modern Firearm General Elk Tag  
BM - Blue Mountains Muzzleloader Tag

**Northeastern:** GMUs 101-142. Modern firearm by permit only in GMUs 127 and 130.

NA - Northeastern Archery Tag  
NF - Northeastern Modern Firearm General Elk Tag  
NM - Northeastern Muzzleloader Tag

**Colockum:** GMUs 300, 302, 304, 306, 308, 314, 316, 328, 329, 330 (Elk hunting by permit only in GMU 330), and the portion of GMU 334 north of I-90 (modern firearm restrictions in GMU 334).

CA - Colockum Archery Tag  
CF - Colockum Modern Firearm General Elk Tag  
CM - Colockum Muzzleloader Tag

**Yakima:** The portion of GMU 334 south of I-90 (Modern Firearm restrictions in GMU 334), and GMUs 335, 336, 340, 342, 346, 352, 356, 360, 364, 368, 371, 372 and 382.

- YA - Yakima Archery Tag
- YF - Yakima Modern Firearm General Elk Tag
- YM - Yakima Muzzleloader Tag

**Western Washington:** All 400, 500 and 600 GMUs except closed in GMU 418, 437, 485, 522, 636 and modern firearm restrictions in portions of GMU 660. GMUs 418 (Nooksack), 437 (Sauk) except for ML Elk Area 941, and GMU 636 (Skokomish) are closed to all elk hunting as Conservation Closures. GMU 554 is open only for early archery and muzzleloader permit seasons. Elk Area 064 in GMU 638 (Quinalt) is open to AHE hunters only. Elk hunting by per-

mit only in GMUs 524, 556, 602, 621, and PLWMA 600 (Pysht).

- WA - Western Washington Archery Tag
- WF - Western Washington Modern Firearm General Elk Tag
- WM - Western Washington Muzzleloader Tag

**Modern Firearm Elk Seasons**

**License Required:** A valid big game hunting license with an elk tag option.

**Tag Required:** Valid modern firearm elk tag as listed below on his/her person for the area hunted.

**Hunting Method:** May use rifle, bow and arrow, or muzzleloader, but only during modern firearm seasons.

Hunt Area		Game Management Units (GMUs)	1999 Season Dates	Legal Elk
Northeast	General (NF)	101 through 124, 133 through 142	Oct. 30-Nov. 7	Any bull
		127, 130		Permit only
Blue Mountains	General (BF)	145 through 154, 162 through 186	Oct. 30-Nov. 7	Spike bull
		157		Permit Only
Colockum	General (CF)	302, 314, 316 south of Hwy 2, 328, 329	Oct. 30-Nov. 7	Spike bull
		330		Permit Only
Yakima	General (YF)	335 through 368	Oct. 30-Nov. 7	Spike bull
	Any Yakima Tag	372, 382	Oct. 5-13	Antlerless
			Oct. 30-Nov. 7	Any Elk
			Dec. 9-13	Antlerless
		371	Oct. 30-Nov. 7	Any Elk
Western Washington	General WF	407, 448, 460, 466, 472, 478, 484, 490, 504 through 520, 530, 550, 558, 560, 572, 601, 603 through 618, 624 through 633, 638 through 684 Except AHE hunters only in Elk Area 064 in GMU 638	Nov. 6-14	3 pt. min.
		501	Nov. 6-14	3 pt. min. or antlerless
		564, 568, 574 through 588	Nov. 6-14	Any elk
		454	Nov. 6-14	Any bull
		524, 556, 602, 621 & PLWMA 600		Permit Only

**Archery Elk Seasons**

**License Required:** A valid big game hunting license with an elk tag option.

**Tag Required:** Valid archery elk tag as listed below on his/her person for the area hunted.

**Hunting Method:** Bow and arrow only.

**Special Notes:** Archery tag holders can hunt only during archery seasons. Archery elk hunters may apply for special bull permits. Please see permit table for tag eligibility for all elk permits.

PERMANENT

Hunt Area	Elk Tag	Game Management Units (GMUs)	1999 Season Dates	Legal Elk
<b>Early Archery Elk Seasons</b>				
Northeast	NA	101 through 142	Sept. 1-14	Any elk
Blue Mountains	BA	145 through 154, 162 through 169, 175 through 186	Sept. 1-14	Spike bull
Colockum	CA	300, 306, 308, 334 (N of I-90)	Sept. 1-14	Any elk
		328, 329, 330	Sept. 1-14	Spike bull or antlerless
Yakima	YA	334 (south of I-90), 372, 382	Sept. 1-14	Any elk
		335, 336, 340, 352, 356, 364, 371	Sept. 1-14	Spike bull or antlerless
Western Washington	WA	454, 564, 568, 574, 578, 588	Sept. 1-14	Any elk
		407, 448, 460, 484, 490, 501 through 520, 530, 550, 554, 558, 560, 572, 660, 663, 667 through 684 and Long Island	Sept. 1-14	3 pt. min. or antlerless
		466, 472, 478, 601, 603, 612 through 618, 624 through 633, 638 through 658 and 666. AHE hunters only in Elk Area 064 in GMU 638. Permit Only in PLWMA 600 in GMU 603.	Sept. 1-14	3 pt. min.
<b>Late Archery Elk Seasons</b>				
Northeast	NA	101, 105, 117 through 130	Nov. 24-Dec. 15	Any elk
Blue Mountains	BA	Private lands within GMU 162 east of the North Touchet Road. GMU 178	Nov. 24-Dec. 15	Antlerless
Colockum	CA	328	Nov. 24-Dec. 8	Spike bull or antlerless
Yakima	YA	335, 336, 346, 352, 360 North of USFS Roads 324, 325, to the intersection of Carmack Canyon then northeast down Carmack Canyon bottom to the Naches River and north to State Highway 410, 368	Nov. 24-Dec. 8	Spike bull or antlerless
Western Washington	WA	407, 484, 505, 506, 520, 530, 672, 681 and Long Island. In GMU 681 closed between US Highway 101 and the Columbia River from Astoria-Megler toll bridge to the Wallacut River.	Nov. 24-Dec. 15	3 pt. min. or antlerless
		454, 564, 588	Nov. 24-Dec. 15	Any elk
		((484,)) 603, 612, 615, 638, 648 except closed in PLWMA 600 in GMU 603. AHE hunters only in Elk Area 064 in GMU 638.	Nov. 24-Dec. 15	3 pt. min.

**Muzzleloader Elk Seasons**

**License Required:** A valid big game hunting license with an elk tag option.

**Tag Required:** Valid muzzleloader elk tag as listed below on his/her person for the area hunted.

**Hunting Method:** Muzzleloader only.

**Special Notes:** Muzzleloader tag holders can only hunt during the muzzleloader seasons and must hunt with muzzleloader equipment. Only hunters with tags identified in the Special Elk Permits tables may apply for special elk permits.

Hunt Area	Elk Tag	Game Management Units (GMUs)	1999 Season Dates	Legal Elk
<b>Early Muzzleloader Elk Seasons</b>				
Northeast	NM	109	Oct. 9-15	Any bull
Blue Mountains	BM	172	Oct. 9-15	Spike bull

PERMANENT

Hunt Area	Elk Tag	Game Management Units (GMUs)	1999 Season Dates	Legal Elk
Colockum	CM	308	Oct. 9-15	Any bull
		304, 314*, 316, S of Hwy 2 *The portion of GMU 314 bordered by the Colockum Pass Road (Road 10) Naneum Ridge Road (Road 9) and Ingersol Road (Road 1) is closed. See Naneum Green Dot Map.	Oct. 9-15	Spike bull
		ML 911	Aug. 14-Sept. 12	Any elk
Yakima	YM	342, 356, 368	Oct. 9-15	Spike bull
		That part of GMU 368 east of the following boundary: Jump Off Road and the powerlines to South Fork Cowiche Creek and then west along South Fork Cowiche Creek to Nasty Creek Road; southeast to the North Fork Ahtanum Road and southeast to Tampico; east along the South Fork Ahtanum Creek and east to Yakama Indian Reservation.	Oct. 9-15	Antlerless
Western Washington	WM	454, 564, 684	Oct. 9-15	Any elk
		460, 478, 484, 513, 530, 603, 607, 660	Oct. 9-15	3 pt. min.
		501	Oct. 9-15	3 pt. min. or antlerless
<b>Late Muzzleloader Elk Seasons</b>				
Northeast	NM	127 through 139 (All units are primarily private lands and access is a problem.)	Nov. 24-Dec. 15	Any elk
Yakima	YM	346	Nov. 14-18	Spike bull or antlerless
		Muzzleloader Area 944	Nov. 24-Dec. 8	Spike bull or antlerless
Western Washington	WM	501, 505	Nov. 24-Dec. 15	3 pt. min. or antlerless
		454, 564, 568, 684	Nov. 24-Dec. 15	Any elk
		574, 578	Nov. 24-Dec. 8	Any elk
		484, 504, 550, 601	Nov. 24-Dec. 15	3 pt. min.

**Special Elk Hunts Open to Specified Tag Holders**

**License Required:** A valid big game hunting license with an elk tag option.

**Tag Required:** Proper elk tags are listed with each GMU below.

**Hunting Method:** Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below.

Hunt Area	Elk Tag	Game Management Units	Legal Elk	Season Dates
				1999
Western	WF	568, 574, 578, 588	Any Elk	Nov. 6-14
	WA, WF, WM	564, Archery, and muzzleloader equipment. Modern Firearm elk tag holders may hunt, but must use archery, muzzleloader or revolver type handgun equipment.	Any Elk	Nov. 6-14

PERMANENT

Hunt Area	Elk Tag	Game Management Units	Legal Elk	Season Dates
				1999
	WM	ML Area No. 941	Any Elk	Oct. 1, 1999-Jan. 31, 2000
Northeast	NF	101, 105, 121, 124 west of SR 395, 127, 130, 133, 136, 139	Any Elk	Oct. 30-Nov. 7
	NA, NM, NF	127, 130 Advanced Hunter Education Hunters Only	Any Elk	Oct. 20-Dec. 31
Central	Any Elk Tag	Grant, Adams, Douglas, Franklin, Okanogan and Benton (south of the Yakima River) cos. and Chelan County N of Hwy 2 except closed within 1/2 mile of Columbia River in Douglas & Grant cos.	Any Elk	Oct. 30-Nov. 15
Colockum	CM	ML Area 911; Advanced Hunter Education Hunters Only	Any Elk	Nov. 24-Dec. 7

**Special Elk Permit Hunting Seasons**

(Open to Permit Holders Only)

Permit hunters may hunt only with a weapon in compliance with their tag. Applicants must have purchased the proper tag for these hunts (see Elk Tag Prefix required to apply for each hunt).

Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description	1999 Permits
<b>Modern Firearm Bull Permit Hunts</b>					
Blue Creek A	Oct. 24-Nov. 7	Any Bull	BF	GMU 154	4
Watershed *	Oct. 30-Nov. 7	3 Pt. Min. or Antlerless	BA, BF, BM	GMU 157	50
Dayton A	Oct. 24-Nov. 7	Any Bull	BF	GMU 162	5
Tucannon A	Oct. 24-Nov. 7	Any Bull	BF	GMU 166	2
Wenaha A	Oct. 24-Nov. 7	Any Bull	BF	GMU 169	7
Mountain View A	Oct. 24-Nov. 7	Any Bull	BF	GMU 172	8
Peola A	Oct. 24-Nov. 7	Any Bull	BF	GMU 178	1
Couse A	Oct. 24-Nov. 7	Any Bull	BF	GMU 181	1
Grande Ronde A	Oct. 24-Nov. 7	Any Bull	BF	GMU 186	1
Naneum A	Oct. 24-Nov. 7	Any Bull	CF	GMU 328	21
Quilomene A	Oct. 24-Nov. 7	Any Bull	CF	GMU 329	9
Peaches Ridge A	Oct. 24-Nov. 7	Any Bull	YF	GMUs 336, 346	118
Observatory A	Oct. 24-Nov. 7	Any Bull	YF	GMUs 340, 342	67
Goose Prairie A	Oct. 24-Nov. 7	Any Bull	YF	GMUs 352, 356	114
Bethel A	Oct. 24-Nov. 7	Any Bull	YF	GMU 360	71
Rimrock A	Oct. 24-Nov. 7	Any Bull	YF	GMU 364	94
Cowiche A	Oct. 24-Nov. 7	Any Bull	YF	GMU 368	8
Margaret A	Nov. 1-14	3 Pt. Min.	WF	GMU 524	10
Toutle A	Nov. 1-14	3 Pt. Min.	WF	GMU 556	88
Dickey A	Nov. 6-14	3 Pt. Min.	WF	GMU 602	54
Olympic A	Nov. 6-14	3 Pt. Min.	WF	GMU 621	13

\*Permit season is open for archery and muzzleloader but hunt is the same as modern firearm and all hunters must wear hunter orange.

**Modern Firearm Elk Permit Hunts (Only modern firearm and muzzleloader elk tag holders may apply.)**

Pend Oreille	Nov. 1-7	Any Elk	NF or NM	GMUs 109, 113, 117	50
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PERMANENT

Mount Spokane	Oct. 30-Nov. 7	Any Elk	NF or NM	124 (E. of SR 395)	50
Mica, Cheney	Oct. 16-Nov. 7	Antlerless	NF or NM	GMUs 127, 130	250
Wenaha B	Oct. 1-10	Any Bull	BF or BM	GMU 169	2
Peola B	Nov. 3-7	Antlerless	BF or BM	GMU 178	25
Wenatchee Mtns.	Oct. 1-10	Any Bull	CF, CM, YF, or YM	GMU 302, 335	22
Shushuskin	Dec. 1-31	Antlerless	YF or YM	Elk Area 031	50
Malaga A***	Sept. 1-Oct. 3	Antlerless	CF or CM	Elk Area 032	75
Malaga B	Nov. 10-Dec. 31	Antlerless	CF or CM	Elk Area 032	40
Taneum	Nov. 3-7	Antlerless	YF or YM	GMU 336	150
Manastash	Nov. 3-7	Antlerless	YF or YM	GMU 340	250
Umtanum A	Nov. 3-7	Antlerless	YF or YM	GMU 342	300
Little Naches A	Nov. 3-7	Antlerless	YF or YM	GMU 346	225
Little Naches B	Oct. 1-10	Any Bull	YF or YM	GMU 346	18
Nile	Nov. 3-7	Antlerless	YF or YM	GMU 352	75
Bumping	Nov. 3-7	Antlerless	YF or YM	GMU 356	300
Bethel B	Nov. 3-7	Antlerless	YF or YM	GMU 360	100
Rimrock B	Nov. 3-7	Antlerless	YF or YM	GMU 364	350
Cowiche B	Nov. 3-7	Antlerless	YF or YM	GMU 368	200
Willapa Hills	Nov. 10-14	Antlerless	WF or WM	GMU 506	100
Packwood	Nov. 10-14	Antlerless	WF or WM	GMU 516	25
Winston	Nov. 10-14	Antlerless	WF or WM	GMU 520	30
Margaret B	Nov. 10-14	Antlerless	WF or WM	GMU 524	10
Ryderwood	Nov. 10-14	Antlerless	WF or WM	GMU 530	75
Coweeman	Nov. 10-14	Antlerless	WF or WM	GMU 550	50
Toutle B	Nov. 10-14	Antlerless	WF or WM	GMU 556	30
Marble	Nov. 10-14	Antlerless	WF or WM	GMU 558	60
Carlton	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 057	5
West Goat Rocks	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 058	5
Mt. Adams	Oct. 1-10	3-Pt. Min.	WF or WM	Elk Area 059	5
Lewis River	Nov. 10-14	Antlerless	WF or WM	GMU 560	75
Siouxon	Nov. 10-14	Antlerless	WF or WM	GMU 572	50
Dungeness	Nov. 10-14	Antlerless	WF or WM	Part of GMU 621*	9
Minot Peak	Oct. 9-15	Antlerless	WF or WM	GMU 660**	20
Williams Creek	Nov. 10-14	Antlerless	WF or WM	GMU 673	50

\*That part of GMU 621 north and west of Jimmy Come Lately Creek and the Gray Wolf River.

\*\*That part of GMU 660 north of the North River-Brooklyn Road.

\*\*\*Damage hunt.

#### Muzzleloader Bull Permit Hunts (Only muzzleloader elk tag holders may apply.)

Blue Creek B	Oct. 1-10	Any Bull	BM	GMU 154	1
Dayton B	Oct. 1-10	Any Bull	BM	GMU 162	1
Tucannon B	Oct. 1-10	Any Bull	BM	GMU 166	1
Wenaha C	Oct. 1-10	Any Bull	BM	GMU 169	2
Mountain View B	Oct. 1-10	Any Bull	BM	GMU 172	3
Peola C	Oct. 1-10	Any Bull	BM	GMU 178	1
Couse B	Oct. 1-10	Any Bull	BM	GMU 181	1
Grande Ronde B	Oct. 1-10	Any Bull	BM	GMU 186	1
Naneum B	Oct. 1-10	Any Bull	CM	GMU 328	2

Quilomene B	Oct. 1-10	Any Bull	CM	GMU 329, 330	1
Peaches Ridge B	Oct. 1-10	Any Bull	YM	GMUs 336, 346	24
Observatory B	Oct. 1-10	Any Bull	YM	GMUs 340, 342	21
Goose Prairie B	Oct. 1-10	Any Bull	YM	GMUs 352, 356	16
Bethel C	Oct. 1-10	Any Bull	YM	GMU 360	10
Rimrock C	Oct. 1-10	Any Bull	YM	GMU 364	13
Cowiche C	Oct. 1-10	Any Bull	YM	GMU 368	6
Margaret C	Oct. 1-10	3 Pt. Min.	WM	GMU 524	2
Toutle C	Oct. 1-10	3 Pt. Min.	WM	GMU 556	20
Dickey B	Oct. 1-10	3 Pt. Min.	WM	GMU 602	6
Olympic B	Oct. 1-10	3 Pt. Min.	WM	GMU 621	3

**Muzzleloader Permit Hunts (Only muzzleloader elk tag holders may apply.)**

Blue Creek C***	12/1/ 99-1/31/ 2000	Antlerless	BM	GMU 154	50
Peola D***	Oct. 9-15	Spike or Antlerless	BM	GMU 178	50
Couse C***	Oct. 9-15	Spike or Antlerless	BM	GMU 181	50
Couse D***	Dec. 1-31	Antlerless	BM	GMU 181	50
Couse E***	Jan. 1-31, 2000	Antlerless	BM	GMU 181	50
Umtanum B	Oct. 10-16	Antlerless	YM	GMU 342	125
Stella***	Nov. 26-Dec. 15	3 Pt. Min. or Antlerless	WM	GMU 504	100
Boistfort ***	Jan. 1-15, 2000	Antlerless	WM	Elk Area 054	20
Yale***	Nov. 26-Dec. 15	Any Elk	WM	GMU 554	75
Toledo***	Jan. 2-16, 2000	Antlerless	WM	Elk Area 029	75
Malaga C***	Oct. 9-29	Antlerless	CM	Elk Area 032	75
North River***	Nov. 26-Dec. 15	Antlerless	WM	GMU 658	20

**Archery Bull Permit Hunts (Only archery elk tag holders may apply.)**

Blue Creek D	Sept. 1-14	Any Bull	BA	GMU 154	1
Dayton C	Sept. 1-14	Any Bull	BA	GMU 162	5
Tucannon C	Sept. 1-14	Any Bull	BA	GMU 166	2
Wenaha D	Sept. 1-14	Any Bull	BA	GMU 169	5
Mountain View C	Sept. 1-14	Any Bull	BA	GMU 172	7
Peola E	Sept. 1-14	Any Bull	BA	GMU 178	1
Couse F	Sept. 1-14	Any Bull	BA	GMU 181	3
Grande Ronde C	Sept. 1-14	Any Bull	BA	GMU 186	1
Naneum C	Sept. 1-14	Any Bull	CA	GMU 328	17
Quilomene C	Sept. 1-14	Any Bull	CA	GMU 329, 330	9
Peaches Ridge C	Sept. 1-14	Any Bull	YA	GMUs 336, 346	106
Observatory C	Sept. 1-14	Any Bull	YA	GMUs 340, 342	62
Goose Prairie C	Sept. 1-14	Any Bull	YA	GMUs 352, 356	82
Bethel D	Sept. 1-14	Any Bull	YA	GMU 360	60
Rimrock D	Sept. 1-14	Any Bull	YA	GMU 364	43
Cowiche D	Sept. 1-14	Any Bull	YA	GMU 368	9
Margaret D	Sept. 1-14	3 Pt. Min.	WA	GMU 524	5
Toutle D	Sept. 1-14	3 Pt. Min.	WA	GMU 556	85
Dickey C	Sept. 1-14	3 Pt. Min.	WA	GMU 602	35
Olympic C	Sept. 1-14	3 Pt. Min.	WA	GMU 621	5

**Advanced Hunter Education (AHE) Graduate Special Elk Permit Hunts (Only AHE graduates may apply.)**

Margaret E	Oct. 1-10	3-Pt. Min	Any Elk Tag	GMU 524	4
Quinault Ridge	Oct. 1-10	3-Pt. Min or Antlerless	Any Elk Tag	GMU 638	5
South Bank A	Jan. 1-30, 2000	Antlerless	Any Elk Tag	Elk Area 062*	10
Skookumchuck	Oct. 1-10	3-Pt. Min. or Antlerless	Any Elk Tag	GMU 667	2

**Persons of Disability Only - Special Elk Permit Hunts**

Northeast	Nov. 2-15	Antlerless	NF, NM or NA	GMUs 109-130	15
Observatory D	Oct. 24-Nov. 7	Any Elk	YF or YM	GMU 340, 342	5
Little Naches C	Oct. 1-10	Any Elk	YF, YM, YA	GMU 346	5
Little Naches D	Oct. 30-Nov. 7	Antlerless	YF, YM, or YA	GMU 346	10
Trout Creek Hill	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Eleven Mile Ridge	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Red Mountain	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Paradise Ridge	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Proverbial Creek	Nov. 8-14	3 Pt. Min. or Antlerless	WF or WM	GMU 572	1
Lone Butte A	Sept. 1-14	Any Elk	Any Archery Elk Tag	GMU 560	1
Lone Butte B	Nov. 8-14	Any Elk	Any Elk Tag	GMU 560	1
Centralia Mine A	Oct. 30-31 (-Nov. 1)	Antlerless	Any Elk Tag	Portion of GMU 667 <u>within Centralia Mine</u>	4
Centralia Mine B	Nov. 6-7((-8))	Antlerless Only	Any Elk Tag	Portion of GMU 667 <u>within Centralia Mine</u>	4
Centralia Mine C	Jan. 8-16, 2000	Antlerless	Any Elk Tag	Portion of GMU 667 <u>surrounding Centralia Mine</u>	8
Centralia Mine D	Jan 22-30, 2000	Antlerless	Any Elk Tag	Portion of GMU 667 <u>surrounding Centralia Mine</u>	8
South Bank B	Dec. 10-20	Antlerless	Any Elk Tag	Elk Area 062*	3

\*Firearm Restriction Area - Hunters may use only muzzle-loader equipment.

\*\*\*Damage Hunt.

**AMENDATORY SECTION** (Amending Order 94-58, filed 8/31/94, effective 10/1/94)

**WAC 232-12-024 Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat.** (1) It is unlawful to possess river otter, cougar, lynx, or bobcat taken in Washington without a department identification seal which has been attached to the raw pelt, on or off the carcass, prior to the pelt sealing deadline.

(2) Any river otter, cougar, or bobcat raw pelt must be presented by the person harvesting the animal, in such a manner that teeth and biological samples can be extracted, to an authorized department employee for sealing.

(3) The raw pelt of a bobcat or river otter must be sealed by an authorized department employee within 20 days after

the close of the appropriate hunting or trapping season in which it was killed.

(4) Any person who takes a cougar must notify the department within 72 hours of kill (excluding legal state holidays) and provide the hunter's name, date and location of kill, and sex of animal. The raw pelt of a cougar must be sealed by an authorized department employee within five days of the notification of kill.

Any person who takes a cougar must present the cougar skull, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing.

(5) It is unlawful to transport or cause the transport out of Washington a raw pelt of river otter, cougar, lynx, or bobcat taken in Washington without a department seal attached to the pelt.

(6) The raw pelt of a river otter, cougar, lynx, or bobcat taken outside Washington and imported into the state must be identified by a tag and/or seal from the state or country of origin and be accompanied by an invoice or declaration specifying the number of pelts in the shipment.

PERMANENT



(7) It is unlawful to possess an unlocked, broken, or otherwise open department seal for river otter, cougar, lynx, or bobcat unless the seal wire or band has been cut through and removed from a pelt that has been received and invoiced by a licensed taxidermist or fur dealer for processing or removed from a pelt that has been processed. ~~((Taxidermist or fur dealer invoices must be sequentially numbered and record name, address, license number, date received, and seal number. The seal must accompany the pelt while being processed. The pelt must be punched with invoice number at the time of skinning or prior to the removal of the seal.~~

~~(8) When a river otter or bobcat is presented unskinned and is to be taken to a taxidermist for processing and will not be sold, an authorized department employee may lock the seal and then cut through the band or wire. The cut seal must be presented to the taxidermist along with the unskinned carcass.)~~

**AMENDATORY SECTION** (Amending Order 97-253, filed 12/23/97, effective 10/1/98)

**WAC 232-12-141 Wild animal trapping.** (1) The trapping season authorizes the taking of furbearing animals for their hides and pelts only. Furbearers may not be taken from the wild and held alive for sale or personal use without a special permit pursuant to WAC 232-12-064.

(2) Any wildlife trapped for which the season is not open shall be released unharmed. Any wildlife that cannot be released unharmed must be left in the trap, and the department of fish and wildlife must be notified immediately.

(3) Lawfully trapped ~~((furbearers))~~ wild animals must be lethally dispatched or immediately released. A firearm may be used for this purpose.

(4) It is unlawful to trap for wild animals:

(a) By any means other than padded foot-hold traps having a minimum rubber pad thickness of one-eighth inch, unpadded foot-hold traps, cage (live) traps, kill traps and snares.

(b) With an unpadded foot-hold trap, unless the trap has jaws with a minimum jaw face width of one-fourth inch, or the trap is set so that it completely submerges and drowns any trapped animal, except that unpadded foot-hold traps not meeting the one-fourth inch jaw face requirement may be used on nondrowning sets on private property with landowner permission for the purpose of protecting livestock, domestic animals, private property, or public safety.

(c) With a steel trap having a jaw spread exceeding seven and one-half inches, except that a kill trap having a jaw spread exceeding seven and one-half inches is lawful when set beneath the water surface.

(d) On dry land, with a nondrowning set with a No. 3 size or larger unpadded foot-hold trap if it does not have jaw spacing of at least three-sixteenth of one inch when the trap is sprung,

(e) With a steel trap with teeth or serrated edges.

(f) Unless kill traps, including foot-hold drowning sets, are checked and animals removed within seventy-two hours.

(g) Unless traps not capable of killing the animal are checked and animals removed within forty-eight hours, except within identified urban trapping areas, where sets not

capable of killing the animal, must be checked and animals removed within twenty-four hours.

(h) With a neck or body snare attached to a spring pole or any spring pole type of device.

(i) Using game birds, game fish or game animals for bait, except nonedible parts of game birds, game fish or game animals may be used as bait.

(j) Within thirty feet of any exposed meat bait or nonedible game parts which ~~((is))~~ are visible to flying raptors.

(5) Game bird feathers may be used as an attractor.

**AMENDATORY SECTION** (Amending Order 165, filed 6/1/81)

**WAC 232-12-261 Live decoys unlawful.** It is unlawful to hunt waterfowl and wild turkeys with the use or aid of live birds as decoys.

**AMENDATORY SECTION** (Amending Order 232, filed 7/23/84)

**WAC 232-12-134 Report required of licensed trappers.** It is unlawful for any licensed trapper to fail to complete and submit to the department, a trapper's report ~~((on the form supplied by the department, on or before April 10 of each year))~~ of catch postmarked on or before April 10. The report must be submitted regardless of success. Trappers who fail to submit an accurate trapper's report of catch must wait a year before purchasing another trapping license. False reports will be considered the same as failure to report. It is the responsibility of each licensed trapper to obtain and submit a trapper's report of catch.

**AMENDATORY SECTION** (Amending Order 95-125, filed 9/1/95, effective 1/1/96)

**WAC 232-28-259 Electronic ~~((tree))~~ treeing switches.** ~~((Effective January 1, 1996,))~~ Electronic dog retrieval collars containing functioning treeing switches (devices consisting of a mercury switch mechanism that results in a change in the transmitted signals when the dog raises its head to a treed animal) are prohibited.

**AMENDATORY SECTION** (Amending Order 165, filed 6/1/81)

**WAC 232-12-291 Hunting before or after hours.** It is unlawful to hunt wild animals or wild birds contrary to posted or official ~~((daily))~~ hunting hours in current season regulations.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 232-12-137

Unlawful to use game species for trapping.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 232-28-20401 Incisor tooth requirement.

**WSR 99-17-042**  
**PERMANENT RULES**  
**DEPARTMENT OF REVENUE**  
[Filed August 12, 1999, 2:20 p.m.]

Date of Adoption: August 12, 1999.

Purpose: To repeal WAC 458-30-360 because the authorizing statute, RCW 84.34.045, and the rule itself expired on December 31, 1995.

Citation of Existing Rules Affected by this Order: Repealing WAC 458-30-360 Correction of erroneous classification or reclassification.

Statutory Authority for Adoption: RCW 84.34.141.

Adopted under preproposal statement of inquiry filed as WSR 99-13-016 on June 4, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed X [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 X [1].

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Both the authorizing statute and the rule expired on December 31, 1995.

Effective Date of Rule: Thirty-one days after filing.

August 12, 1999

Russell W. Brubaker  
Assistant Director

Legislation and Policy Division

**WSR 99-17-043**  
**PERMANENT RULES**  
**DEPARTMENT OF AGRICULTURE**  
[Filed August 13, 1999, 8:05 a.m.]

Date of Adoption: August 13, 1999.

Purpose: To revise current rules to update references to the Code of Federal Regulations and the Association of

American Feed Control Officials (AAFCO) publications dated 1998.

Citation of Existing Rules Affected by this Order: Chapter 16-200 WAC, Feeds and fertilizers, amending WAC 16-200-750, 16-200-755, 16-200-760, 16-200-790, 16-200-795, 16-200-815, and 16-200-830.

Statutory Authority for Adoption: RCW 15.53.9012.

Adopted under notice filed as WSR 99-13-164 on June 22, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 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.

August 13, 1999

Jim Jesernig  
Director

**AMENDATORY SECTION** (Amending Order 5098, filed 7/9/96, effective 8/9/96)

**WAC 16-200-750 Definitions and terms.** (1) The names and definitions for commercial feeds shall be the Official Definition of Feed Ingredients adopted by the Association of American Feed Control Officials (AAFCO), as they appear in the ((1996)) 1998 official publication of the association, except as the department designates otherwise in specific cases.

Note: A copy of the ((1996)) 1998 official publication of the association of American Feed Control Officials is on file with the department. Copies may be obtained from AAFCO Treasurer; Georgia Department of Agriculture; Plant Food, Feed and Grain Division; Capitol Square; Atlanta, GA 30334.

(2) The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by the AAFCO, as they appear in the ((1996)) 1998 official publication of the association, except as the department designates otherwise in specific cases.

(3) The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of RCW 15.53.901(2): Raw meat, loose salt, hay, straw, stover, silages, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials: Provided, That these commodities are not adulterated within the meaning of RCW 15.53.902.

PERMANENT

(4) The term "quantity statement" means the net weight (mass) as defined in RCW 19.94.010 (1)(i), net volume (liquid or dry) or count.

(5) The following definitions, in addition to the official definitions adopted by AAFCO, as published in the ((1996)) 1998 edition, are adopted:

(a) Pea meal is a pea product resulting from the grinding of whole peas which are reasonably free of other crop seeds, weeds, and mold. It shall contain not less than twenty percent crude protein and not more than eight percent crude fiber.

(b) Pea by-products meal is a product containing light and broken peas, and offal from pea cleaning, which includes chips, pea powder, pea hulls, and screenings. It shall contain not less than fifteen percent crude protein nor more than thirty percent crude fiber.

(c) Pea screenings meal consists primarily of the various separates obtained from the screening and cleaning of peas. It shall contain not less than ten percent crude protein nor more than thirty-eight percent crude fiber.

(d) Pea bran consists primarily of the various separates obtained from the pea splitting operation. It shall contain not less than ten percent crude protein nor more than thirty-eight percent crude fiber.

(e) Grass seed by-products meal or pellets is a ground product consisting of light and broken seeds, hulls, chaff, straw, and a portion of the weed seeds; excluding sand, dirt, and heavy weed seeds.

(f) Grass seed screenings meal or pellets is the product obtained from the cleaning of various grass seed and shall be comprised chiefly of hulls.

(g) Dehydrated grass meal is the aerial portion of the plant cut prior to formation of seed reasonably free of other crop plants, weeds, and mold, which has been finely ground and dried by thermal (artificial) means. If a species name is used, the product must correspond thereto.

(h) Facility is defined as any place where a commercial feed is manufactured, sold or stored for later distribution.

**AMENDATORY SECTION** (Amending Order 5098, filed 7/9/96, effective 8/9/96)

**WAC 16-200-755 Label format.** (1) Except as provided for in subsection (2) of this section, commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this section on the principal display panel of the product and in the following general format:

(a) Product name and brand name if any;

(b) If a drug is used, the label shall include:

(i) The word "medicated" directly following and below the product name in type size, no smaller than one-half the type size of the product name;

(ii) The purpose of the medication (claim statement);

(iii) An active drug ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with WAC 16-200-770(5);

(c) Directions for use and precautionary statements or reference to their location if the detailed feeding directions and precautionary statements required by WAC 16-200-795 and 16-200-830 appear elsewhere on the label;

(d) The guaranteed analysis of the feed required under the provisions of RCW 15.53.9016 (1)(b). This shall include the following items, unless exempted in subsection (2) of this section, in the order listed:

(i) Minimum percentage of crude protein;

(ii) Maximum or minimum percentage of equivalent protein from nonprotein nitrogen as required in WAC 16-200-770(8);

(iii) Minimum percentage of crude fat;

(iv) Maximum percentage of crude fiber;

(v) Moisture guarantees shall be shown as a part of the guaranteed analysis on the labels of all canned pet foods and specialty pet foods. When water is added in the preparation of canned foods for animals, water must be listed as an ingredient;

(vi) For mineral feeds the guaranteed analysis shall include the following, if added:

(A) Minimum and maximum percentages of calcium (Ca);

(B) Minimum percentage of phosphorus (P);

(C) Minimum and maximum percentages of salt (NaCl); and

(D) Other minerals;

(vii) Vitamins in such terms as specified in WAC 16-200-770(4);

(viii) Total sugars as invert on dried molasses products or products being sold primarily for their sugar content;

(ix) Viable lactic acid producing microorganisms for use in silages in terms specified in WAC 16-200-770(10);

(e) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of RCW 15.53.9016 (1)(c):

(i) The name of each ingredient as defined in the ((1996)) 1998 Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the department;

(ii) Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the ((1996)) 1998 Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients: Provided, That:

(A) When a collective term of a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label;

(B) The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state;

(f) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however the street address may be omitted if it is shown in the current city directory or telephone directory;

(g) Quantity statement.

(2) Exemptions.

(a) A mineral guarantee is not required when the feed or feed ingredient is not intended, or represented or does not serve as a principal source of that mineral to the animal.

(b) Guarantees for vitamins are not required when the commercial feed is neither formulated for, nor represented in any manner as a vitamin supplement.

(c) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.

(d) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.

(3) The information required by subsection (1)(a) and (b) and (d) through (g) of this section must appear in its entirety on one side of the label or container.

(4) The information required by subsection (1)(c) of this section shall be displayed in a prominent place on the label or container but not necessarily on the same side as the above information. When the information required by subsection (1)(c) of this section is placed on a different side of the label or container, it must be referenced on the front side with a statement such as "see back of label for directions for use." None of the information required by RCW 15.53.9016 shall be subordinated or obscured by other statements or designs.

(5) No printed or written matter or design (e.g., picture of animal or bird) of any kind shall be attached to, appear on, or be distributed with feed if such matter is misleading or incorrect, or at variance in any respect with the information on the principal label. Labeling which suggests that presence of added enzyme-bearing materials improves utilization of a commercial feed is prohibited.

(6) No statement may appear on a label which refers to or compares properties of the package contents to some other competitive products unless such other competitive product is specifically identified. A negative statement is not allowed on a label except when this provides information deemed by the director to be beneficial to the purchaser.

(7) Customer-formula feed shall be labeled with the information prescribed using labels, invoice, delivery ticket, or other shipping document bearing the following information:

- (a) The name and address of the manufacturer;
- (b) The name and address of the purchaser;
- (c) The date of delivery;
- (d) The product name and the quantity statement;
- (e) The product name and quantity statement of each commercial feed and each other ingredient used in the customer-formula feed must be on file at the plant producing the product. These records must be kept on file for one year after the date of the last sale. This information shall be available to the purchaser, the dealer making the sale, and the department on request;
- (f) The direction for use and precautionary statements as required by WAC 16-200-795 and 16-200-830;
- (g) If a drug is used, the labeling shall include:
  - (i) The purpose of the medication (claim statement);

(ii) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with WAC 16-200-770(5).

(8) When bulk commercial feeds are sacked and offered for sale, each container shall be accompanied by a label in accordance with the provisions of RCW 15.53.9016(1).

(9) All bulk deliveries of commercial feed shall be accompanied by a label or a shipping document in accordance with the provisions of RCW 15.53.9016(1).

**AMENDATORY SECTION** (Amending Order 5098, filed 7/9/96, effective 8/9/96)

**WAC 16-200-760 Brand and product names.** (1) The brand or product name must be appropriate for the intended use of the feed and not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A mixture labeled "dairy feed," for example, must be suitable for that purpose.

(2) When not specifically stated in chapter 15.53 RCW or otherwise designated by the department, the department will be guided by the definitions of feed ingredients and feed terms as established in the ((1996)) 1998 official publication of the Association of American Feed Control Officials in accepting product names for single ingredient feeds.

(3) A name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any component of a mixture unless all components are included in the name: Provided, That if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name, if in the opinion of the department, the ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product, that it does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients, and that it is not otherwise false or misleading.

(4) The word vitamin, or a contraction thereof, or any word suggesting vitamin, can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in WAC 16-200-770(4).

(5) The term "mineralized" shall not be used in the name of a feed except "trace mineralized salt." When so used, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

(6) When the brand name carries a percentage value, it shall be understood to signify protein and/or protein equivalent content. If any other percentage values are used in brand names, they must be followed by the proper description.

(7) Commercial feed shall be considered as a distinct brand when differing either in guaranteed analysis, trademark name, or any other characteristic method of marking: Provided, That a brand may be sold in various physical forms.

(8) The word "protein" shall not be permitted in the brand name of a feed that contains added nonprotein nitrogen.

(9) The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

**AMENDATORY SECTION** (Amending Order 5098, filed 7/9/96, effective 8/9/96)

**WAC 16-200-790 Ingredient statement.** (1) As provided in WAC 16-200-755 (1)(e), the name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name defined in the Official Definitions of Feed Ingredients as published in the ((1996)) 1998 Official Publication of the Association of American Feed Control Officials, the common or usual name, or one approved by the department.

(2) The name of each ingredient must be shown in letters or type of the same size.

(3) No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

(4) The term "dehydrated" may precede the name of any product that has been artificially dried.

(5) A single ingredient product defined by the Association of American Feed Control Officials, as published in the ((1996)) 1998 official publication of Association of American Feed Control Officials, is not required to have an ingredient statement.

(6) Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e., sugar).

(7) When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.

(8) The term "degermed" must precede the name of any product from which the germ was wholly or partially removed.

(9) The use of commercial, copyrighted brand, or trade names in the guarantees and ingredient listing shall not be permitted.

**AMENDATORY SECTION** (Amending Order 5098, filed 7/9/96, effective 8/9/96)

**WAC 16-200-795 Directions for use and precautionary statements.** (1) Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or nonnutritive additives) shall:

(a) Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and

(b) Include, but not be limited to, all information described by all applicable regulations of the Code of Federal Regulations, Title 21, parts 500-599 under the Federal Food, Drug and Cosmetic Act as provided in the ((1995)) 1998 edition.

Note: The Food and Drug Administration's regulations are published in the Code of Federal Regulations, and are available

in book format from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. A copy of the ((1995)) 1998 edition, Parts 200-599 is on file with the department.

(2) Adequate directions for use and precautionary statements as identified in subsection (1) of this section are required for feeds containing nonprotein nitrogen as specified in WAC 16-200-830.

(3) Adequate directions for use and precautionary statements necessary for safe and effective use as identified in subsection (1) of this section are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

**AMENDATORY SECTION** (Amending Order 5098, filed 7/9/96, effective 8/9/96)

**WAC 16-200-815 Adulteration.** (1) Pursuant to RCW 15.53.902, the terms "poisonous or deleterious substances" include but are not limited to the following:

(a) A commercial feed or feed ingredient which contains more than twenty parts per billion aflatoxin B1, B2, G1, G2, individually or total;

(b) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry;

(c) Fluorine bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine and 0.03% for poultry;

(d) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight;

(e) Soybean meal, flakes or pellets or other vegetable meals, flakes or pellets which have been extracted with trichlorethylene or other chlorinated solvents;

(f) Sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine);

(g) Any substance which is prohibited by the Code of Federal Regulations, Title 21, Part 589, effective April 1, 1998.

(2) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no more than one viable prohibited (primary) noxious weed seeds per pound and not more than twenty-five viable restricted (secondary) noxious weed seeds per pound.

**AMENDATORY SECTION** (Amending Order 5098, filed 7/9/96, effective 8/9/96)

**WAC 16-200-830 Nonprotein nitrogen.** (1) Urea and other nonprotein nitrogen products defined in the ((1996)) 1998 official publication of the Association of American Feed Control Officials are accepted ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein.

(2) If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of nonprotein nitrogen added as such, or the equivalent crude protein from all forms of nonprotein nitrogen, added as such, or exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a caution statement: CAUTION: USE AS DIRECTED. The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

(3) The presence of added nonprotein nitrogen shall not require a duplication of the feeding directions or the warning or caution statements on medicated feed labels which contain adequate feeding directions and/or warning statements as long as those statements include sufficient information to insure the safe and effective use of this product due to the presence of nonprotein nitrogen.

(4) Nonprotein nitrogen defined in the ((1996)) 1998 Official Publication of the Association of American Feed Control Officials, when so indicated, are acceptable ingredients in commercial feeds distributed to nonruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from nonprotein nitrogen sources when used in nonruminant rations shall not exceed 1.25% of the total daily ration.

### WSR 99-17-048

#### PERMANENT RULES

#### DEPARTMENT OF LICENSING

(Professional Athletics)

[Filed August 13, 1999, 9:42 a.m.]

Date of Adoption: August 13, 1999.

Purpose: To allow the department to expand and clarify safety standards to be used for professional boxing world title and martial arts contests. WAC 36-12-364, which outlines rule exceptions to boxing bouts; a new rules chapter, professional martial arts, chapter 36-14 WAC and WAC 36-14-100, which outlines rules exceptions.

Statutory Authority for Adoption: RCW 67.08.017(1).

Adopted under notice filed as WSR 99-13-127 on June 17, 1999.

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 2, 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.

August 13, 1999

Alan E. Rathbun

Assistant Director

#### NEW SECTION

**WAC 36-12-364 Rule exceptions boxing bouts.** If boxing events involving world championships are held, in addition to chapter 36-12 WAC, the department may use the *Unified Championship Rules* as adopted by the World Boxing Association, World Boxing Council, World Boxing Organization, and International Boxing Federation, or rules established by any other professional boxing organization that afford a similar level of safety to participants. A copy of any world championship boxing rules used by the department may be obtained through correspondence to the Washington state department of licensing.

#### Chapter 36-14 WAC

#### Professional Martial Arts

#### NEW SECTION

**WAC 36-14-100 Rule exceptions.** If a martial arts, kickboxing, muay thai or pankration event is held, in addition to chapter 36-12 WAC, the department may use the *Rules of Competition* as established by the United Full Contact Federation, or rules of competition established by any other professional martial arts organization that afford a similar level of safety to participants. A copy on any *Rules of Competition* used by the department may be obtained through correspondence to the Washington state department of licensing.

### WSR 99-17-050

#### PERMANENT RULES

#### COMMISSION ON

#### JUDICIAL CONDUCT

[Order 99-01—Filed August 13, 1999, 10:06 a.m., effective September 15, 1999]

Date of Adoption: August 6, 1999.

Purpose: To amend and clarify existing rules of procedure and confidentiality, and to add a new rule for compliance proceedings.

Citation of Existing Rules Affected by this Order: Amending CJCRP Terminology, 3, 6, 7, 10, 11, 16, 17, 22, 23, and 24.

Statutory Authority for Adoption: Article IV, Section 31, Washington State Constitution.

Other Authority: Chapter 2.64 RCW.

Adopted under notice filed as WSR 99-09-050 on April 19, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 11, 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 11, Repealed 0.

Effective Date of Rule: September 15, 1999.

August 6, 1999

Gregory R. Dallaire  
Chair

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 99-18 issue of the Register.

**WSR 99-17-066**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-125—Filed August 13, 1999, 1:53 p.m., effective April 1, 2000]

Date of Adoption: August 7, 1999.

Purpose: To require recreational Dungeness crab fishers to possess, fill out and return a catch record card designed to provide harvest data for management of the crab resource, and to modify existing catch record card rules to accomplish this.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-39-237, 220-69-238, 220-69-239 and 232-12-157; and amending WAC 220-56-175 and 220-69-236.

Statutory Authority for Adoption: RCW 75.08.080, 77.12.040.

Adopted under notice filed as WSR 99-13-119 on June 16, 1999.

Changes Other than Editing from Proposed to Adopted Version: **WAC 220-56-175 Catch record cards:**

**Subsection (1)** Line 5: Strike "a fisherman." Replace with "an angler." Line 6: Strike "his." Replace with "personal." Line 7: Strike "also referred to as punch card in chapter 75.25 RCW." **Reason:** Provides for housekeeping changes.

**Subsection (4)** Line 1: Add "aboard a vessel." Line 3: Add "fishery type." Line 5: Add "at the end of the fishing

day, the fisher shall enter the total number of crab tally marks for each fishery type." **Reason:** Provides for housekeeping changes and fishery type data.

**Subsection (5)** Line 3: Strike "fisheries." Replace with "fish and wildlife." **Reason:** Provides for housekeeping changes.

**WAC 220-69-236 Description of catch record cards and required information:**

**Subsection (3)** Line 2: After the word "information," strike "which shall be completed immediately upon catching a fish to be retained."

**Subsection (4)** Line 2: After the word "code," strike "which shall be completed immediately upon catching a fish to be retained."

**Subsection (5)** Line 3: After the word "boat," strike "which shall be completed immediately upon catching a fish to be retained."

**Subsection (6)** Line 2: After the word "fish," strike "which shall be completed immediately upon catching a fish to be retained."

**Subsection (7)** Line 2: After the word "information," strike "which shall be completed upon retaining the first Dungeness crab for each catch record card area fished."

**Subsection (7)(c)** Line 1: After the word "area," strike "and the following information, which shall be recorded immediately upon retaining a Dungeness crab. Tally mark for each crab retained." **Reason:** Removes the reporting requirement from the catch record card.

**Subsection (7)** Add new subsection: "(d) Type of crab fishery as described on the Dungeness crab catch record card." **Reason:** Provides information on the type of crab fishery.

**Subsection (7)** Add new subsection: "(e) Total crab retained by fishery type." **Reason:** Provides information on the number of crab retained by fishery type.

Section (7) Add new subsection: "(f) Tally mark for each crab retained." **Reason:** Provides information on the number of crab retained.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 4.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: April 1, 2000.

August 13, 1999

Debbie Nelson

for Kelly White, Chairman

Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

**WAC 220-56-175** (~~Salmon, sturgeon, and halibut~~) **Catch record cards.** It is unlawful for any person to fail to comply with the catch record requirements as provided for in this section:

(1) In order to fish for or possess for personal use any crab, anadromous salmon, Columbia River, Grays Harbor, or Willapa Bay sturgeon (including sturgeon taken from any tributary), ~~((or))~~ halibut taken from Catch Record Card Areas 5 through 13 or steelhead, ~~((a fisherman))~~ an angler must obtain and have in ~~((his))~~ personal possession the appropriate catch record card ~~((also referred to as punch card in chapter 75.25 RCW))~~ as described in WAC ~~((220-69-237, 220-69-238, and 220-69-239))~~ 220-69-236 except for commercially caught salmon retained for personal use as provided for in WAC 220-20-016 and commercially caught sturgeon retained for personal use as provided for in WAC 220-20-021.

(2) Any angler, when obtaining a catch record card shall completely, accurately, and legibly complete all personal identification information in ink on the catch record card prior to detaching the catch record card from the underlying copy of the catch record card.

(3) Immediately upon catching and possessing a salmon, steelhead, sturgeon or halibut, the angler shall enter in ink in the appropriate space the place, date of catch, species (catch type), ~~((and,))~~ for sturgeon, length and, for halibut, vessel type.

(4) Immediately upon retaining a Dungeness crab aboard a vessel or on the shore, the fisher must enter in ink in the appropriate space the place and date of catch, fishery type and enter a tally mark for each Dungeness crab retained from each catch record card area fished. At the end of the fishing day, the fisher shall enter the total number of crab tally marks for each fishery type.

(5) Every person possessing a catch record card shall by ~~((January 31))~~ April 30 of the year following the year printed on the card return such card to the department of ~~((fisheries))~~ fish and wildlife.

~~((5))~~ (6) Any person possessing a catch record card shall, upon demand of any law enforcement officer or authorized ~~((fisheries))~~ department employee, exhibit said card to such officer or employee for inspection.

~~((6))~~ (7) A catch record card shall not be transferred, borrowed, altered, or loaned to another person.

**NEW SECTION**

**WAC 220-69-236 Description of catch record cards and required information.** (1) The department shall prepare and distribute catch record cards for the following:

- (a) Anadromous salmon (salmon);
- (b) Dungeness crab;
- (c) Halibut taken from catch record card areas 5 through 13;
- (d) Steelhead;
- (e) Sturgeon taken from the Columbia River, Grays Harbor, and Willapa Bay (including sturgeon taken from any tributary).

(2) Each catch record card shall contain space for the following information, which must be recorded prior to the catch record card being separated from the underlying copy of the catch record card:

- (a) Name of fisher;
- (b) Home address;
- (c) City, state, and zip code;
- (d) Date of issuance.

(3) Each halibut, salmon, steelhead, and sturgeon catch record card shall contain space for the following information:

- (a) Month of catch;
- (b) Day of catch;

(c) Catch record card area, river code, or stream: Location of catch.

(4) Each salmon and sturgeon catch record card shall contain space for a species code.

(5) Each halibut catch record card shall contain space for designating the type of vessel from which the halibut was taken, either charter (c) or personal/kicker (k) boat.

(6) Each sturgeon catch record card shall contain space for the length of fish.

(7) Each Dungeness crab catch record card shall contain space for the following information:

- (a) Month of catch;
- (b) Date of catch;
- (c) Catch record card area;
- (d) Type of crab fishery as described on the Dungeness crab catch record card;
- (e) Total crab retained by fishery type;
- (f) Tally mark for each crab retained.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 220-69-237	Description of sport salmon catch record and required information.
WAC 220-69-238	Description of sturgeon catch record and required information.
WAC 220-69-239	Description of halibut catch record card and required information.

PERMANENT



**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 232-12-157 Steelhead catch record card.

**WSR 99-17-067**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-127—Filed August 13, 1999, 1:57 p.m.]

Date of Adoption: August 7, 1999.

Purpose: To close commercial herring dip bag net fishery in north Puget Sound Marine Fish/Shellfish Catch Areas 20A, 20B, 21A and 21B.

Citation of Existing Rules Affected by this Order: Amending WAC 220-49-020.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 99-13-120 on June 16, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 13, 1999

Debbie Nelson

for Kelly White, Chairman

Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending WSR 98-05-043, filed 2/11/98, effective 3/14/98)

**WAC 220-49-020 Herring and anchovy—Seasons—**

**Lawful gear—Purposes.** It shall be unlawful to take, fish for or possess for commercial purposes herring or anchovy in Puget Sound except during lawful seasons, with lawful gear and for such purposes as provided for hereinafter in each respective fishing area:

(1) Area 20A.

(a) Closed September 1 through May 31 to all commercial fishing gear except for the spawn on kelp fishery as provided for in WAC 220-49-063.

(b) Closed June 1 through August 31 to all commercial fishing (~~gear except dip bag net~~).

(2) It is unlawful to use purse seine gear in any Puget Sound area except 23A, 23B, 23C, 23D, and 29. Areas 23A, 23B, 23C, 23D and 29 are open to purse seine gear the entire year.

(3) All other Puget Sound Marine Fish-Shellfish Management and Catch Reporting Areas - Open entire year with drag seine, lampara, and dip bag net for human consumption or bait only except for closures set out in subsections (4), (5) and (6) of this section.

(4) The following areas are closed the entire year to all gear (~~except dip bag net gear~~):

~~((a))~~ Areas 20B, 21A, 21B, 22A (~~and~~), 22B, 25A, and 25E.

~~((b) Swinomish Channel—Waters between the bridge spanning the channel south of La Conner and a line perpendicular to the channel at the northeast end of the La Conner boat basin.))~~

(5) The following areas are closed from January 16 through April 15, except to dip bag net gear:

(a) Area(~~s 22B,~~) 24A except for a year round closure in Swinomish Channel in those waters between the bridge spanning the channel south of La Conner and a line perpendicular to the channel at the northeast end of the La Conner boat basin, 24B, and 24D.

(b) Waters of Area 25C south of a line from Tala Point to Foulweather Bluff.

(c) Area 25D.

(d) Waters of Area 26B west of a line from Point Monroe to Point Jefferson.

(e) Area 26C.

(f) Waters of Area 26D north of a line from Neill Point to Piner Point.

(g) Waters of Area 27A north of a line from South Point to Lofall and contiguous waters of 27A south of a line projected true east from Hazel Point including all waters of Dabob and Quilcene Bays.

(h) Waters of Area 27B north of a line from Triton Head to Tekiu Point.

(i) Waters of Area 27C east of a line from Ayers Point to Union.

(j) Waters of Area 28A west of a line projected true north-south through Treble Point on Anderson Island, including Henderson Inlet.

(k) Waters of Area 28B west of a line projected true north from Penrose Point, including Mayo Cove and Von Geldern Cove.

(l) All contiguous waters of Area 28D north and east of a line projected from Dofflemeyer Point through Cooper Point to landfall on the west shore of Eld Inlet, including Totten Inlet, Hammersley Inlet and Oakland Bay.

~~((6) The following areas are closed the entire year to all gear: Areas 25A and 25E.))~~

PERMANENT

**WSR 99-17-068**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-126—Filed August 13, 1999, 2:02 p.m.]

Date of Adoption: August 7, 1999.

Purpose: To allow codified commercial sea cucumber harvest seasons to be set by emergency rule.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Adopted under notice filed as WSR 99-13-118 on June 16, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 13, 1999

Debbie Nelson

for Kelly White, Chairman

Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 94-23, filed 5/19/94, effective 6/19/94)

**WAC 220-52-071 Sea cucumbers.** It is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section.

**(1) Sea cucumber districts:**

(a) Sea Cucumber District 1 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, 22B, and 23B outside of the following closed areas:

(i) San Juan Channel and Upright Channel within the following lines: North of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island and south of a line projected from Flat Point on Lopez Island true west to Shaw Island; west of a line from Neck Point on Shaw Island to Steep Point on Orcas Island; south of a line from Steep Point on Orcas Island to Limestone Point on San Juan Island.

(ii) Haro Strait north of a line projected east-west one-half mile south of Eagle Point on San Juan Island and south of a line projected east-west one-quarter mile north of Lime Kiln Light on San Juan Island.

(iii) Within one-quarter mile of Green Point on Spieden Island.

(iv) Within one-quarter mile of Gull Reef, located between Spieden Island and Johns Island.

(b) Sea Cucumber District 2 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, 29 and those waters west of the Bonilla-Tatoosh Line, Pacific Ocean waters, Grays Harbor, Willapa Bay, and the waters at the mouth of the Columbia River west of the Buoy 10 Line.

(c) Sea Cucumber District 3 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, 26A, 26B, 26C, and 26D.

(d) Sea Cucumber District 4 is defined as those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, 27C, 28A, 28B, 28C, and 28D.

**(2) Sea cucumber areas and seasons:**

~~((a) District 1 open May 1 through October 31, 1991.~~

~~(b) District 2 open May 1 through October 31, 1992.~~

~~(c) District 3 open May 1 through October 31, 1993, except:~~

~~(i) Marine Fish-Shellfish Management and Catch Reporting Area 26C is closed to the harvest of sea cucumbers after August 31, 1993.~~

~~(ii) The waters of Eagle Harbor west of a line projected from Wing Point to Eagle Harbor Creosote Light Number 1 then due west to the shore on Bainbridge Island are closed to the harvest of sea cucumbers at all times.~~

~~(iii) The waters of Sinclair Inlet west of a line projected southerly from the easternmost point of Point Turner to landfall below the Veteran's Home in Annapolis are closed to the harvest of sea cucumbers at all times.~~

~~(d) District 4 open May 1 through October 31, 1994.~~

~~(e) Other areas and times as authorized by permit issued by the director.~~

~~(f) During the seasons provided for in this subsection, harvest is restricted to Monday through Wednesday May 1 through May 14, Monday through Thursday May 15 through June 30, and Monday through Friday thereafter. Divers may not take sea cucumbers from one-half hour before official sunset to official sunrise or 6:00 a.m., whichever is later.)~~  
Sea cucumber areas and seasons will be set by emergency rule.

**(3) Shellfish diver gear:**

(a) Divers operating from a vessel must have a number assigned by the department placed on both sides and the top of the vessel in such a manner that the number is clearly visible when the vessel is viewed from either side or from the air, and the letters must be black on white no less than eighteen inches in height and of proportional width.

(b) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard.

(c) Divers may not fish for or possess geoduck clams during commercial sea cucumber harvesting operations, or possess geoduck clams on a vessel that has sea cucumbers on board.

(d) Licensing: A sea cucumber dive fishery license is the license required to operate the gear provided for in this section.

**(4) Trawl gear:**

It is unlawful to fish for or possess sea cucumbers taken with trawl gear.

**WSR 99-17-077****PERMANENT RULES****STATE BOARD OF HEALTH**

[Filed August 13, 1999, 4:45 p.m., effective September 1, 1999]

Date of Adoption: July 14, 1999.

**Purpose:** This rule institutes reporting of asymptomatic HIV infection, contains provisions to safeguard confidentiality, and ensures access to anonymous HIV testing.

**Citation of Existing Rules Affected by this Order:** Amending WAC 246-100-016, 246-100-036, 246-100-041, 246-100-072, 246-100-076, 246-100-206, 246-100-207, 246-100-208, 246-100-209, and 246-100-236.

**Statutory Authority for Adoption:** RCW 70.24.125.

**Other Authority:** RCW 70.24.130.

Adopted under notice filed as WSR 99-12-083 on May 28, 1999.

**Changes Other than Editing from Proposed to Adopted Version:** WAC 246-100-036(4) corrected from "Control of Communicable Diseases in Man" to "Control of Communicable Diseases Manual."

**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 10, 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 1, Amended 10, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; **or Other Alternative Rule Making:** New 0, Amended 0, Repealed 0.

**Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule:** This rule allows cases of asymptomatic HIV disease to be reported earlier which in turn allows local public health officers to offer and provide assistance to sexual and needle sharing partners. This will effectively help prevent the spread of HIV.

**Effective Date of Rule:** September 1, 1999.

August 12, 1999

James Robertson

Acting Executive Director

**AMENDATORY SECTION** (Amending Order 225B, filed 12/23/91, effective 1/23/92)

**WAC 246-100-016 Confidentiality.** Identifying information about any individual with a reportable disease or con-

dition pursuant to chapter 246-100 WAC shall be protected by persons with knowledge of such identity.

(1) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with sexually transmitted disease, following the basic principles of health care providers, which respect the human dignity and confidentiality of patients:

(a) May disclose identity of a person or release identifying information only as specified in RCW 70.24.105; and

(b) Shall establish and implement policies and procedures to maintain confidentiality related to a patient's medical information.

(2) For the purpose of RCW 70.24.105(6), customary methods for exchange of medical information shall be limited as follows:

(a) Health care providers may exchange confidential medical information related to HIV testing, HIV test results, and confirmed HIV or confirmed STD diagnosis and treatment in order to provide health care services to the patient.

**Meaning:**

(i) The information shared impacts the care or treatment decisions concerning the patient; and

(ii) The health care provider requires the information for the patient's benefit.

(b) "Health care services to the patient" means personal interaction, treatment, consultation, or intervention for patient care.

(c) Health care facility administrators are authorized to permit access to medical information as necessary to fulfill professional duties. Health care facility administrators shall advise those persons permitted access under this section of the requirement to maintain confidentiality of such information as defined under this section and chapter 70.24 RCW. Professional duties means the following or functionally similar activities:

(i) Medical record or chart audits;

(ii) Peer reviews;

(iii) Quality assurance;

(iv) Utilization review purposes;

(v) Research (~~(review board reviews)~~) as authorized under chapters 42.48 and 70.02 RCW;

(vi) Risk management; and

(vii) Reviews required under federal or state law or rules.

(d) Health care facility administrators and health care providers responsible for office management are authorized to permit access to a patient's medical information and medical record by health care facility and medical staff or office staff to carry out duties required for care and treatment of a patient and the management of medical information and the patient's medical record.

(e) Health care facility administrators are authorized to permit exchange of medical information for training and teaching of health care providers and students when exchange of confidential medical information is necessary for such training and specifically related to the care of the patient.

(3) Health care providers, employees of a health care facility or medical laboratory, and other individuals with knowledge of a person with a reportable disease or condition, other than those specified in subsections (1) and (2) of this

section, shall release identifying information only to other individuals responsible for protecting the health and well being of the public through control of communicable and certain other diseases.

(4) Local and state health department personnel shall maintain individual case reports as confidential records consistent with WAC 246-100-091.

(5) Local and state health department personnel shall not disclose identifying information received as a result of WAC 246-100-076 (1)(c)(i) and (xiv) or WAC 246-100-236 (1)(a)(xviii) and (xix) unless:

(a) Explicitly and specifically required to do so by state or federal law; or

(b) Authorized by written patient consent.

(6) Local and state health department personnel are authorized to use HIV identifying information obtained as a result of WAC 246-100-076 (1)(c)(i) and (xiv) and WAC 246-100-236 (1)(a)(xviii) and (xix) only for the following purposes:

(a) Notification of persons with substantial exposure, including sexual or syringe-sharing partners;

(b) Referral of the infected individual to social and health services; and

(c) Linkage to other public health data bases, provided that the identity or identifying information on the HIV-infected person is not disclosed outside of the health department.

(7) Public health data bases do not include health professions licensing records, certifications or registries, teacher certification lists, other employment rolls or registries, or data bases maintained by law enforcement officials.

(8) State and local health officers shall require and maintain signed confidentiality agreements with all health department employees with access to HIV identifying information. Such agreements will be renewed at least annually and include reference to criminal and civil penalties for violation of chapter 70.24 RCW and other administrative actions that may be taken by the agency.

(9) State and local health officers shall investigate potential breaches of the confidentiality of HIV identifying information by health department employees. All breaches of confidentiality shall be reported to the state health officer or their authorized representative for review and appropriate action.

(10) The Washington state public health laboratory, other laboratories approved as public health referral laboratories, and any persons, institutions, or facilities submitting specimens or records containing patient-identifying information shall maintain the identifying information accompanying submitted laboratory specimens as confidential records.

((6)) (11) Statistical summaries and epidemiologic studies based on individual case reports may be public information provided no individual is identified or identifiable.

**AMENDATORY SECTION** (Amending WSR 97-15-099, filed 7/21/97, effective 7/21/97)

**WAC 246-100-036 Responsibilities and duties—Local health officers.** (1) The local health officer shall review and determine appropriate action for:

(a) Each reported case or suspected case of a reportable disease or condition;

(b) Any disease or condition considered a threat to public health;

(c) Each reported outbreak or suspected outbreak of disease, requesting assistance from the department in carrying out investigations when necessary; and

(d) Instituting disease prevention and infection control, isolation, detention, and quarantine measures necessary to prevent the spread of communicable disease, invoking the power of the courts to enforce these measures when necessary.

(2) Local health officers shall:

(a) Submit reports to the state health officer as required in chapter 246-100 WAC;

(b) Establish a system at the local health department for maintaining confidentiality of written records and written and telephoned disease case reports consistent with WAC 246-100-016;

(c) Notify health care providers within the health district regarding requirements in this chapter;

(d) Distribute appropriate report forms to persons responsible for reporting;

(e) Notify the principal health care provider(;;):

(i) If possible, prior to initiating a case investigation by the local health department; and

((f)) (ii) For HIV infection, not contact the HIV-infected person directly without considering the recommendations of the principal health care provider on the necessity and best means for conducting the case investigation, unless:

(A) The principal health care provider cannot be identified; or

(B) Reasonable efforts to reach the principal health care provider over a two-week period of time have failed;

(f) Ensure anonymous HIV testing is reasonably available;

(g) Make HIV testing, AIDS counseling, and pretest and post-test counseling, as defined in this chapter, available for voluntary, mandatory, and anonymous testing and counseling as required by RCW 70.24.400;

((g)) (h) Make information on anonymous HIV testing, AIDS counseling, and pretest and post-test counseling, as described under WAC 246-100-208 and 246-100-209, available;

((h)) (i) Use identifying information on HIV-infected individuals provided according to WAC ((246-100-072)) 246-100-076 and 246-100-236 only:

(i) For purposes of contacting the HIV-positive individual to provide test results and post-test counseling; or

(ii) To contact persons who have experienced substantial exposure, including sex and injection equipment-sharing partners, ((including)) and spouses; ((and

(+)) or

(iii) To link with other name-based public health disease registries when doing so will improve ability to provide needed care services and counseling and disease prevention; and

(j) Destroy case report identifying information on asymptomatic HIV-infected individuals received as a result

of WAC 246-100-076 within three months of receiving a complete case report:

(k) Destroy documentation of referral information established in WAC 246-100-072 and this subsection containing identities and identifying information on HIV-infected individuals and at-risk partners of those individuals immediately after notifying partners or within three months, whichever occurs first.

(3) Each local health officer has the authority to:

(a) Carry out additional steps determined to be necessary to verify a diagnosis reported by a health care provider;

(b) Require any person suspected of having a reportable disease or condition to submit to examinations required to determine the presence of the disease or condition; and

(c) Investigate any case or suspected case of a reportable disease or condition or other illness, communicable or otherwise, if deemed necessary.

(4) Local health officers shall conduct investigations and institute control measures consistent with those indicated in the ~~((fifteenth))~~ sixteenth edition ~~((1990))~~ 1995 of *Control of Communicable Diseases ((in-Man)) Manual*, edited by Abram S. Benenson, published by the American public health association, except:

(a) When superseded by more up-to-date measures, or

(b) When other measures are more specifically related to Washington state.

AMENDATORY SECTION (Amending Order 354B, filed 4/1/93, effective 5/2/93)

**WAC 246-100-041 Responsibilities and duties—State health officer.** (1) The state health officer shall have authority to:

(a) Require reporting of cases and suspected cases of disease and conditions in addition to those required in WAC 246-100-076 for a period of time less than thirty-six months when:

(i) The disease or condition is newly recognized or recently acknowledged as a public health concern, and

(ii) Epidemiologic investigation based on reports of cases may contribute to understanding of the disease or condition, and

(iii) Written notification is provided to all local health officers regarding:

(A) Additional reporting requirements, and

(B) Rationale or justification for specifying the disease or condition as reportable.

(b) Require laboratories to submit specimens indicative of infections in addition to those required in WAC 246-100-231 for a period of time less than thirty-six months, provided:

(i) The infection is of public health concern, and

(ii) Written notification is provided to all local health officers and all directors of medical laboratories registered as described in WAC 246-100-221 explaining:

(A) Actions required, and

(B) Reason for the addition.

~~((c) Eliminate the requirement for laboratories to report CD4+ counts and CD4+ percents as specified in WAC 246-100-236 if state and federal funding of HIV/AIDS-related~~

~~health services do not depend on numbers of reported AIDS cases or if less than ten percent of cases reported are discovered through laboratory reporting of CD4+ count and CD4+ percent results.))~~

(2) The state health officer's authorization to require reporting of cases or submission of laboratory specimens, other than those specified in WAC 246-100-076 and 246-100-231, shall expire thirty-six months from the date of written notification of local health officers and laboratory directors unless amended rules are adopted by the state board of health.

(3) The state health officer shall distribute periodic epidemiologic summary reports and an annual review of public health issues to local health officers and local health departments.

#### NEW SECTION

**WAC 246-100-043 Surveillance report to the board—State health officer.** Within twelve months of the effective date of the HIV infection reporting system established in WAC 246-100-076, the state health officer, in cooperation with local health officers, will report to the board on:

(1) The ability of the reporting system to meet surveillance performance standards established by the federal Centers for Disease Control and Prevention;

(2) The cost of the reporting system for state and local health departments;

(3) The reporting system's effect on disease control activities; and

(4) The impact of HIV reporting on HIV testing among persons at increased risk of HIV infection.

AMENDATORY SECTION (Amending WSR 97-15-099, filed 7/21/97, effective 7/21/97)

**WAC 246-100-072 Rules for notification of partners at risk of HIV infection.** (1) A health care provider may consult with the local health officer or an authorized representative about an HIV-infected individual ~~((without identifying the individual)).~~

(2) Only under the specific circumstances listed below, a principal health care provider shall report the identity of sex or injection equipment-sharing partners, including spouses, of an HIV-infected individual to the local health officer or an authorized representative:

(a) After being informed of the necessity to notify sex and injection-equipment sharing partners, including spouses, and confirm notification to the health care provider, the HIV-infected individual either refuses or is unable to notify partners that partners:

(i) May have been exposed to and infected with HIV; and

(ii) Should seek HIV-pretest counseling and consider HIV testing; and

(b) The HIV-infected individual neither accepts assistance nor agrees to referral to the local health officer or an authorized representative for assistance in notifying partners.

(3) Only in the specific circumstances listed below, shall a principal health care provider ~~((shall report the identity of~~

~~an individual with a positive HIV test result to~~) notify the local health officer or an authorized representative to directly contact the HIV-infected person for the purpose of partner notification:

(a) The HIV-infected person agrees to meet with the local health officer or authorized representative; or

(b) The principal health care provider provided pretest counseling as described in WAC 246-100-209(1) before the individual was tested; and

~~((b))~~ (c) The principal health care provider made efforts, but was unable to meet face-to-face with the individual to notify the individual of the HIV-test result and to provide post-test counseling as required in WAC 246-100-209 in order to assure partner notification.

(4) A health care provider shall not disclose the identity of an HIV-infected individual or the identity of sex and injection equipment-sharing partners, including spouses, at risk of HIV infection, except as authorized in RCW 70.24.105, WAC 246-100-072, or 246-100-076.

(5) Local health officers and authorized representatives shall:

(a) Confirm conditions in subsections (2) and (3) of this section were met prior to initiating partner notification or receiving referral of identity of an HIV-infected individual; and

(b) Use identifying information, provided according to this section, on HIV-infected individuals only for contacting the HIV-infected individual to provide post-test counseling or to contact sex and injection equipment-sharing partners, including spouses; and

(c) Destroy documentation of referral information established under this subsection, containing identities and identifying information on the HIV-infected individual and at-risk partners of that individual, immediately after notifying partners or within three months of the date information was received, whichever occurs first.

**AMENDATORY SECTION** (Amending WSR 96-23-064, filed 11/20/96, effective 12/21/96)

**WAC 246-100-076 Reportable diseases and conditions.** (1) The following diseases and conditions shall be reported as individual case reports by health care providers and others with a duty to report to the local health department in accordance with requirements and procedures described throughout chapter 246-100 WAC:

(a) Category A diseases require an immediate report at the time a case is suspected or diagnosed and include:

- (i) Anthrax,
- (ii) Botulism (including food-borne, infant, and wound),
- (iii) Cholera,
- (iv) Diphtheria, noncutaneous,
- (v) Measles (rubeola),
- (vi) Paralytic shellfish poisoning,
- (vii) Plague,
- (viii) Poliomyelitis, and
- (ix) Rabies.

(b) Category B diseases or conditions require a case report within one day of diagnosis and include:

- (i) Brucellosis,

(ii) Gastroenteritis of suspected food-borne or water-borne origin,

(iii) Hemophilus influenzae invasive disease (excluding otitis media) in children age five years and under,

(iv) Hepatitis A and B, acute,

(v) Leptospirosis,

(vi) Listeriosis,

(vii) Meningococcal disease,

(viii) Paratyphoid fever (see salmonellosis),

(ix) Pertussis,

(x) Rubella, including congenital,

(xi) Salmonellosis, including paratyphoid fever and typhoid fever,

(xii) Shigellosis,

(xiii) Syphilis—primary, secondary, or congenital (for other, see Category C),

(xiv) Tuberculosis (suspected or diagnosed),

(xv) Typhoid fever, including carrier (see salmonellosis),

(xvi) Unusual communicable disease (see definition WAC 246-100-011).

(c) Category C diseases or conditions require a case report within seven days of diagnosis and include:

(i) Acquired immunodeficiency syndrome (AIDS) ~~((class IV))~~ and asymptomatic human immunodeficiency virus (HIV((, HTLV-III, or LAV))) disease for adults and adolescents (as classified by the Centers for Disease Control, U.S. Public Health Service, Morbidity and Mortality Weekly Report (MMWR), ~~((May 23, 1986))~~ December 19, 1992, Volume ~~((35))~~ 41, Number ~~((20))~~ RR-17, and ~~((class P-2))~~ for pediatric HIV ((illness)) cases (as classified by the Centers for Disease Control, U.S. Public Health Service, MMWR, April 24, 1987, Volume 36, Number 15),

(ii) Amebiasis,

(iii) Campylobacteriosis,

(iv) Chancroid,

(v) Chlamydia trachomatis infection,

(vi) Ecoli 0157:H7 infection,

(vii) Encephalitis, viral,

(viii) Giardiasis,

(ix) Gonorrhea,

(x) Granuloma inguinale,

(xi) Herpes simplex, initial genital infection,

(xii) Herpes simplex, neonatal,

(xiii) Hepatitis non-A, non-B, and unspecified,

(xiv) Human immunodeficiency virus (HIV) infection,

~~((xv))~~ Kawasaki syndrome,

~~((xv))~~ (xvi) Legionellosis,

~~((xvi))~~ (xvii) Leprosy (Hansen's disease),

~~((xvii))~~ (xviii) Lyme disease,

~~((xviii))~~ (xix) Lymphogranuloma venereum,

~~((xix))~~ (xx) Malaria,

~~((xx))~~ (xxi) Mycobacteriosis,

~~((xxi))~~ (xxii) Mumps,

~~((xxii))~~ (xxiii) Nongonococcal urethritis,

~~((xxiii))~~ (xxiv) Pelvic inflammatory disease, acute,

~~((xxiv))~~ (xxv) Pseudomonas folliculitis of suspected waterborne origin,

~~((xxv))~~ (xxvi) Psittacosis,

~~((xxvi))~~ (xxvii) Q fever,

~~((xxvii))~~ (xxviii) Relapsing fever (borreliosis),  
~~((xxviii))~~ (xxix) Reye Syndrome,  
~~((xxix))~~ (xxx) Rheumatic fever,  
~~((xxx))~~ (xxxi) Rocky mountain spotted fever,  
~~((xxxii))~~ (xxxii) Syphilis—other (see also Category B),  
~~((xxxiii))~~ (xxxiii) Tetanus,  
~~((xxxiiii))~~ (xxxiv) Tick paralysis,  
~~((xxxiv))~~ (xxxv) Toxic shock syndrome,  
~~((xxxv))~~ (xxxvi) Trichinosis,  
~~((xxxvi))~~ (xxxvii) Tularemia,  
~~((xxxvii))~~ (xxxviii) Vibriosis,  
~~((xxxviii))~~ (xxxix) Yersiniosis, and  
~~((xxxix))~~ (xl) Severe adverse reaction to immunization.

(2) Any cluster or pattern of cases, suspected cases, deaths, or increased incidence of any disease or condition beyond that expected in a given period which may indicate an outbreak, epidemic, or related public health hazard shall be reported immediately by telephone to the local health officer. Such patterns include, but are not limited to, suspected or confirmed outbreaks of food borne or waterborne disease, chickenpox, influenza, viral meningitis, nosocomial infection suspected due to contaminated products or devices, or environmentally related disease.

(3) A health care provider conducting a clinical HIV research project shall be required to report the identity of an individual participating in the project unless:

(a) The project has been approved by an institutional review board; and

(b) The project has a system in place to remind referring health care providers of their reporting obligations under this section.

(4) In implementing the reporting requirements in subsection (1)(c)(i) and (xiv), the department of health will seek the input of local health departments, HIV-infected persons, and community organizations serving persons with HIV infection or AIDS.

(5) Effective September 1, 1999, health care providers are required to report to the local health department all cases of HIV infection consistent with the provisions of chapter 246-100 WAC, provided the HIV-infected person receives health care or treatment services on or after September 1, 1999, regardless of the date of initial diagnosis. Local health officials will report asymptomatic HIV infection cases to the state health department according to a standard code developed by the state health department.

(6) When providing technical assistance to a local health department, authorized representatives of the state health department may temporarily and subject to the time limitations in WAC 246-100-036 (2)(j) receive the names of reportable cases of asymptomatic HIV infection for the purpose of HIV surveillance, partner notification, or special studies. Upon completion of the activities by representatives of the state health department, named information will be:

(a) Provided to the local health department subject to the provisions of WAC 246-100-036 (2)(j); and

(b) Converted to code and maintained as code only until the person is diagnosed with AIDS.

(7) Diagnosed cases of symptomatic HIV infection, including AIDS, as defined in this section remain a reportable condition, by name, regardless of the date of diagnosis.

(8) Local health officers may require reporting of additional diseases and conditions.

**AMENDATORY SECTION** (Amending WSR 97-15-099, filed 7/21/97, effective 7/21/97)

**WAC 246-100-206 Special diseases—Sexually transmitted diseases.** (1) Definitions.

(a) "Anonymous HIV testing" means that the name or identity of the individual tested for HIV will not be recorded or linked to the HIV test result. However, once the individual testing positive receives HIV health care or treatment services, reporting of the identity of the individual to the state or local public health officer is required.

(b) "Behaviors presenting imminent danger to public health (BPID)" means the following activities, under conditions specified below, performed by an individual with a laboratory confirmed HIV infection:

(i) Anal or vaginal intercourse without a latex condom;  
or

(ii) Shared use of blood-contaminated injection equipment;

(iii) Donating or selling HIV-infected blood, blood products, or semen; and

(iv) Under the following specified conditions:

(A) The infected individual received post-test counseling as described in WAC 246-100-209 prior to repeating activities in subsection (1)(~~(a)~~) (b)(i) and (ii) of this section; and

(B) The infected individual did not inform the persons, with whom activities described in subsection (1)(~~(a)~~) (b)(i) and (ii) of this section occurred, of his or her infectious status.

~~((b))~~ (c) "Behaviors presenting possible risk" means:

(i) Actual actions resulting in "exposure presenting a possible risk" limited to:

(A) Anal, oral, or vaginal intercourse excluding conjugal visits; or

(B) Physical assault; or

(C) Sharing of injection equipment or sharp implements;  
or

(D) Throwing or smearing of blood, semen, or vaginal fluids; or

(ii) Threatened action if:

(A) The threatening individual states he or she is infected with HIV; and

(B) The threatened behavior is listed in subsection (1)(b)(i)(A), (B), (C), and (D) of this section; and

(C) The threatened behavior could result in "exposure presenting a possible risk."

~~((e))~~ (d) "Conduct endangering public health" means:

(i) Anal, oral, or vaginal intercourse for all sexually transmitted diseases;

(ii) For HIV and Hepatitis B:

(A) Anal, oral, or vaginal intercourse; and/or

(B) Sharing of injection equipment; and/or

(C) Donating or selling blood, blood products, body tissues, or semen; and

(iii) Activities described in subsection (1)(d)(i) and (ii) of this section resulting in introduction of blood, semen, and/or vaginal fluids to:

(A) Mucous membranes;

- (B) Eyes;
- (C) Open cuts, wounds, lesions; or
- (D) Interruption of epidermis.

((+)) (e) "Confidential HIV testing" means that the name or identity of the individual tested for HIV will be recorded and linked to the HIV test result, and that the name of the individual testing positive for HIV will be reported to the state or local health officer in a private manner.

(f) "Exposure presenting possible risk" means one or more of the following:

(i) Introduction of blood, semen, or vaginal fluids into:

- (A) A body orifice or a mucous membrane;
- (B) The eye; or

(C) An open cut, wound, lesion, or other interruption of the epidermis.

(ii) A needle puncture or penetrating wound resulting in exposure to blood, semen, and/or vaginal fluids.

((+)) (g) "Reasonably believed" or "reason to believe," in reference to a sexually transmitted disease, means a health officer's belief which:

(i) For the purpose of investigating the source and spread of disease, is based upon a credible report from an identifiable individual indicating another person is likely to have a sexually transmitted disease (STD) or to have been exposed to a STD; and

(ii) For the purpose of issuing a written order for an individual to submit to examination, counseling, or treatment is based upon:

(A) Laboratory test results confirming or suggestive of a STD; or

(B) A health care provider's direct observation of clinical signs confirming an individual has or is likely to have a STD; or

(C) Obtaining information directly from an individual infected with a STD about the identity of his or her sexual or needle-sharing contacts when:

(I) Contact with the infected individual occurred during a period when the disease may have been infectious; and

(II) The contact was sufficient to transmit the disease; and

(III) The infected individual is, in the health officer's judgment, credible and believable.

((+)) (h) "Substantial exposure" means physical contact resulting in exposure presenting possible risk, limited to:

(i) A physical assault upon the exposed person involving blood or semen;

(ii) Intentional, unauthorized, nonconsensual use of needles or sharp implements to inject or mutilate the exposed person;

(iii) An accidental parenteral or mucous membrane or nonintact skin exposure to blood, semen, or vaginal fluids.

(2) Health care providers shall:

(a) Report each case of sexually transmitted disease as required in chapter 246-100 WAC, and

(b) Instruct each patient regarding:

(i) Communicability of the disease, and

(ii) Requirements to refrain from acts that may transmit the disease to another.

(c) Ensure completion of a prenatal serologic test for syphilis in each pregnant woman pursuant to RCW 70.24.090 including:

(i) Submission of a blood sample for syphilis to a laboratory approved to perform prenatal serologic tests for syphilis, as required in RCW 70.24.090, at the time of the first prenatal visit, and

(ii) Decide whether or not to omit the serologic test for syphilis if the test was performed elsewhere during the current pregnancy.

(3) Laboratories, health care providers, and other persons shall deny issuance of a certificate or statement implying an individual is free from sexually transmitted disease.

(4) Local health officers, health care providers, and others, in addition to requirements in chapter 246-100 WAC, shall comply with the provisions in chapter 70.24 RCW.

(5) Prevention of ophthalmia neonatorum.

(a) Health care providers diagnosing or caring for a patient with gonococcal or chlamydial ophthalmia neonatorum shall report the case to the local health officer or local health department in accordance with the provisions of this chapter.

(b) The principal health care provider attending or assisting in the birth of any infant or caring for an infant after birth, shall ensure instillation of a department-approved prophylactic ophthalmic agent into the conjunctival sacs of the infant within the time frame established by the department in policy statement of ophthalmia agents approved for the prevention of ophthalmia neonatorum in the newborn, issued June 19, 1981.

(6) State and local health officers or their authorized representatives shall:

(a) Have authority to conduct or cause to be conducted an interview and investigation of persons infected or reasonably believed to be infected with a sexually transmitted disease; and

(b) Use procedures and measures described in WAC 246-100-036(4) in conducting investigations.

(7) State and local health officers and their authorized representatives shall have authority to:

(a) Issue written orders for medical examination, testing, and/or counseling under chapter 70.24 RCW, only after:

(i) All other efforts to protect public health have failed, including reasonable efforts to obtain the voluntary cooperation of the person to be affected by the order; and

(ii) Having sufficient evidence to "reasonably believe" the individual to be affected by the order:

(A) Has a sexually transmitted disease; and

(B) Is engaging in "conduct endangering public health"; and

(iii) Investigating and confirming the existence of "conduct endangering public health" by:

(A) Interviewing sources to assess their credibility and accuracy; and

(B) Interviewing the person to be affected by the order; and

(iv) Including in a written order all information required in RCW 70.24.024.

(b) Issue written orders for treatment under RCW 70.24.022 only after laboratory test results, or direct observa-



tion of clinical signs or assessment of clinical data by a physician, confirm the individual has, or is likely to have, a sexually transmitted disease;

(c) Issue written orders to cease and desist from specified activities, under RCW 70.24.024 only after:

(i) Determining the person to be affected by the order is engaging in "conduct endangering public health"; and

(ii) Laboratory test results, or direct observation of clinical signs or assessment of clinical data by a physician, confirm the individual has, or is likely to have, a sexually transmitted disease; and

(iii) Exhausting procedures described in subsection (7)(a) of this section; and

(iv) Enlisting, if appropriate, court enforcement of the orders described in subsections (7)(a) and (b) of this section; and

(d) Seek court orders for detention under RCW 70.24.034, only for persons infected with HIV and only after:

(i) Exhausting procedures described in subsection (7)(a), (b), and (c) of this section; and

(ii) Enlisting, if appropriate, court enforcement of orders to cease and desist; and

(iii) Having sufficient evidence to "reasonably believe" the person is engaging in "behaviors presenting an imminent danger to public health."

(8) Conditions for detention of individuals infected with sexually transmitted disease.

(a) A local health officer may notify the state health officer if he or she determines:

(i) The criteria for "behaviors presenting imminent danger to public health (BPID)" are met by an individual; and

(ii) Such individual fails to comply with a cease and desist order affirmed or issued by a court.

(b) A local or state health officer may request the prosecuting attorney to file an action in superior court to detain an individual specified in subsection (8)(a) of this section.

(c) The requesting local or state health officer or authorized representative shall:

(i) Notify the department prior to recommending the detention setting where the individualized counseling and education plan may be carried out consistent with subsections (8)(d), (e), and (f) of this section;

(ii) Make a recommendation to the court for placement of such individual consistent with subsections (8)(d) and (f) of this section; and

(iii) Provide to the court an individualized plan for education and counseling consistent with subsection (8)(e) of this section.

(d) State board of health requirements for detention of individuals demonstrating BPID:

(i) Sufficient number of staff, caregivers, and/or family members to:

(A) Provide round-the-clock supervision, safety of detainee, and security; and

(B) Limit and restrict activities to prevent BPID; and

(C) Make available any medical, psychological, or nursing care when needed; and

(D) Provide access to AIDS education and counseling; and

(E) Immediately notify the local or state health officer of unauthorized absence or elopement; and

(ii) Sufficient equipment and facilities to provide:

(A) Meals and nourishment to meet nutritional needs; and

(B) A sanitary toilet and lavatory; and

(C) A bathing facility; and

(D) Bed and clean bedding appropriate to size of detainee; and

(E) A safe detention setting appropriate to chronological and developmental age of detainee; and

(F) A private sleeping room; and

(G) Prevention of sexual exploitation.

(iii) Sufficient access to services and programs directed toward cessation of BPID and providing:

(A) Linguistically, socially, culturally, and developmentally appropriate ongoing AIDS education and counseling; and

(B) Psychological and psychiatric evaluation and counseling; and

(C) Implementation of court-ordered plan for individualized counseling and education consistent with subsection (8)(e) of this section.

(iv) If required, provide access to isolation and/or restraint in accordance with restraint and seclusion rules in WAC 275-55-263 (2)(c);

(v) Maintain a safe, secure environment free from harassment, physical danger, and sexual exploitation.

(e) Washington state board of health standards for an individualized counseling and education plan for a detainee include:

(i) Consideration of detainee's personal and environmental characteristics, culture, social group, developmental age, and language;

(ii) Identification of habitual and addictive behavior and relapse pattern;

(iii) Identification of unique risk factors and possible cross-addiction leading to behavior presenting imminent danger to public health;

(iv) Identification of obstacles to behavior change and determination of specific objectives for desired behavior;

(v) Provision of information about acquisition and transmission of HIV infection;

(vi) Teaching and training of individual coping skills to prevent relapse to BPID;

(vii) Specific counseling for chemical dependency, if required;

(viii) Identification of and assistance with access to community resources, including social services and self-help groups appropriate to provide ongoing support and maintenance of behavior change; and

(ix) Designation of a person primarily responsible for counseling and/or education who:

(A) Completed pretest and post-test counselor training approved by the office on AIDS; and

(B) Received training, as approved by the office on AIDS, focused on facilitating behavior change related to preventing BPID; and

(C) Has a post-graduate degree in social work, psychology, counseling, psychosocial nursing, or other allied profession; and

(D) Completed at least one year clinical experience after post-graduate education with a primary focus on individualized behavior change; and

(E) Is a certified counselor under chapter 18.19 RCW.

(x) Designation and provision of a qualified counselor under WAC 275-19-145 when the detainee is assessed to have a drug or alcohol problem.

(f) The state board of health designates the following settings appropriate for detention provided a setting meets requirements in subsection (8)(d)(i), (ii), (iii), (iv), and (v) of this section:

(i) Homes, care facilities, or treatment institutions operated or contracted by the department;

(ii) Private homes, as recommended by the local or state health officer;

(iii) Boarding homes licensed under chapter 18.20 RCW;

(iv) Nursing homes licensed under chapter 18.51 RCW;

(v) Facilities licensed under chapter 71.12 RCW, including:

(A) Psychiatric hospitals, per chapter 246-322 WAC;

(B) Alcoholism treatment centers if certified for substance use under chapter 275-19 WAC;

(C) Adult residential rehabilitation centers, per chapter 246-325 WAC;

(D) Private adult treatment homes, per chapter 246-325 WAC;

(E) Residential treatment facilities for psychiatrically impaired children and youth, per chapter 246-323 WAC;

(vi) A hospital licensed under chapter 70.41 RCW.

(9) Jail administrators may order pretest counseling, post-test counseling, and HIV testing of persons detained in jail according to RCW 70.24.360 only under the following conditions:

(a) The jail administrator documents and reports to the local health officer, within seven days after the incident, any incident perceived to be actual or threatened "behaviors presenting possible risk"; and

(b) The local health officer:

(i) Determines the documented behavior or behaviors meet the criteria established in the definition of "behaviors presenting a possible risk"; and

(ii) Interviews the detained individual to evaluate the factual basis for alleged actual or threatened behavior; and

(iii) Makes a fact determination, based upon the documented behavior, the interview with the detained individual, and/or independent investigation, that sufficient factual evidence exists to support the allegation of actual or threatened "behaviors presenting possible risk"; and

(iv) Arranges for testing of the individual who is the source of the behavior to occur within seven days of the request from the jail administrator; and

(v) Reviews with the detained individual who is the source of the behavior the documentation of the actual or threatened behavior to try to assure understanding of the basis for HIV testing; and

(vi) Provides written approval of the jail administrator's order prior to HIV testing in accordance with subsection (7)(a)(i) of this section.

(c) The jail administrator maintains HIV test results and identity of the tested individual as a confidential, nondisclosable record, as provided in RCW 70.24.105.

(10) When an individual experiences a substantial exposure to another individual's body fluids and requests HIV testing of that other individual, the state and local health officers have authority to order pretest counseling, HIV testing, and post-test counseling of that other individual providing:

(a) The alleged exposure occurred when the individual was employed or acting as an authorized volunteer in one of the following employment categories:

(i) Law enforcement officer;

(ii) Firefighter;

(iii) Health care provider;

(iv) Staff of health care facilities;

(v) Funeral director;

(vi) Embalmer; and

(b) The alleged substantial exposure occurred on the job; and

(c) The request to the health officer for testing and counseling of the individual was made within seven days of the occurrence of the alleged exposure; and

(d) The local health officer:

(i) Determines that the alleged exposure meets the criteria established in the definition of "substantial exposure"; and

(ii) Ensures that pretest counseling of the individual to be tested, or a legal representative, occurs; and

(iii) Arranges for testing of the individual who is the source of the exposure to occur within seven days of the request from the person exposed; and

(e) The exposed individual agrees to be tested for HIV if such testing is determined appropriate by the health officer; and

(f) Records on HIV testing ordered by a health officer are maintained only by the ordering health officer.

(11) For the purpose of RCW 49.60.172 concerning the absence of HIV infection as a bona fide occupational qualification only, "significant risk" means a job qualification which requires person-to-person contact likely to result in direct introduction of blood into the eye, an open cut or wound, or other interruption of the epidermis, when:

(a) No adequate barrier protection is practical; and

(b) Determined only on case-by-case basis consistent with RCW 49.60.180.

**AMENDATORY SECTION** (Amending WSR 97-04-041, filed 1/31/97, effective 3/3/97)

**WAC 246-100-207 Human immunodeficiency virus (HIV) testing—Ordering—Laboratory screening—Interpretation—Reporting.** (1) Any person ordering or prescribing an HIV test for another, except for seroprevalent studies under chapter 70.24 RCW or provided under subsections (2) and (3) of this section, shall:

(a) Provide or refer for pretest counseling described under WAC 246-100-209;

(b) Obtain or ensure informed specific consent of the individual to be tested separate from other consents prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW; ~~((and))~~

(c) Inform, orally or in writing, the individual to be tested of the availability of anonymous HIV testing and of the differences between "anonymous HIV testing" and "confidential HIV testing"; and

(d) Provide or refer for post-test counseling described under WAC 246-100-209 if HIV test is positive for or suggestive of HIV infection.

(2) Any person authorized to order or prescribe an HIV test for another may offer anonymous HIV testing without restriction.

(3) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Obtain or ensure informed specific consent of the individual prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW;

(b) Explain that the reason for HIV testing is to prevent contamination of the blood supply, tissue, or organ bank donations; ~~((and))~~

(c) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session; and

(d) Inform the individual that the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer.

~~((3))~~ (4) Persons subject to regulation under Title 48 RCW and requesting an insured, subscriber, or potential insured or subscriber to furnish the results of an HIV test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Before obtaining a specimen to perform an HIV test, provide written information to the individual tested explaining:

- (i) What an HIV test is;
- (ii) Behaviors placing a person at risk for HIV infection;
- (iii) The purpose of HIV testing in this setting is to determine eligibility for coverage;
- (iv) The potential risks of HIV testing; and
- (v) Where to obtain HIV pretest counseling.

(b) Obtain informed specific written consent for an HIV test. The written informed consent shall include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) That the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer; and

(iii) Requirements under subsection ~~((3))~~ (4)(c) of this section.

(c) Establish procedures to inform an applicant of the following:

(i) Post-test counseling specified under WAC 246-100-209(4) is required if an HIV test is positive or indeterminate;

(ii) Post-test counseling is done at the time any positive or indeterminate HIV test result is given to the tested individual;

(iii) The applicant is required to designate a health care provider or health care agency to whom positive or indeterminate HIV test results are to be provided for interpretation and post-test counseling; and

(iv) When an individual applicant does not identify a designated health care provider or health care agency and the applicant's HIV test results are positive or indeterminate, the insurer, health care service contractor, or health maintenance organization shall provide the test results to the state or local health department for interpretation and post-test counseling.

~~((4))~~ (5) Laboratories and other places where HIV testing is performed shall demonstrate complete and satisfactory participation in an HIV proficiency testing program approved by the Department Laboratory Quality Assurance Section, Mailstop K17-9, 1610 N.E. 150th, Seattle, Washington 98155.

~~((5))~~ (6) The department laboratory quality assurance section shall accept substitutions for EIA screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

~~((6))~~ ~~Medical laboratories testing for the presence of HIV shall:~~

~~(a) Send an HIV test prevalence results report by telephone or in writing to the department office on AIDS (Mailstop K17-9, 1610 N.E. 150th, Seattle, Washington 98155), quarterly or more often; and~~

~~(b) Include in the report:~~

~~(i) Number of samples tested;~~

~~(ii) Number of samples repeatedly reactive by enzyme immuno assay (EIA);~~

~~(iii) Number of samples tested by western blot assay (WBA) or other confirmatory test as approved by department office on AIDS;~~

~~(iv) Number of positive test results by WBA or other confirmatory test as approved by department office on AIDS;~~

~~(v) Number of specimens tested by viral culture; and~~

~~(vi) Number of positive test results from viral cultures;))~~

(7) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) HIV is isolated by viral culture technique; or

(b) HIV nucleic acid (RNA or DNA) is detected; or

(c) HIV is detected through a P24 antigen (neutralizable) test; or

(d) HIV antibodies are identified by a sequence of tests which are reactive and include:

(i) A repeatedly reactive screening test such as the enzyme immunoassay (EIA); and

(ii) An additional, more specific, assay such as a positive western blot assay (WBA) or other tests as ~~((defined and described in the AIDS office manual, April, 1988, Department of Health, Office on AIDS, P.O. Box 47840, Olympia, Washington 98504-7840))~~ approved by the United States

Food and Drug Administration (FDA) in a published list or other written FDA communication.

~~((e))~~ (e) Such information consists of relevant, pertinent facts communicated in such a way that it will be readily understood by the recipient.

AMENDATORY SECTION (Amending Order 225B, filed 12/23/91, effective 1/23/92)

**WAC 246-100-208 Counseling standard—AIDS counseling.** (1) Principal health care providers shall counsel or ensure AIDS counseling for:

- (a) Each pregnant woman; and
- (b) Each patient seeking treatment of a sexually transmitted disease.

(2) Drug treatment programs under chapter 70.96A RCW shall provide or ensure provision of AIDS counseling for each person in a drug treatment program.

(3) Health care providers, persons, and organizations providing AIDS counseling shall:

(a) Assess the behaviors of each individual counseled for risk of acquiring and transmitting human immunodeficiency virus (HIV);

(b) Maintain a nonjudgmental environment during counseling which:

(i) Considers the individual's particular circumstances; and

(ii) Is culturally, socially, linguistically, and developmentally appropriate to the individual being counseled.

(c) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;

(d) Provide or ensure provision of personalized risk reduction education to individuals who:

(i) Are men who had sex with other men at any time since 1977;

(ii) Used intravenous substances at any time since 1977;

(iii) Engaged in sex for money or drugs at any time since 1977;

(iv) Have had sexual and/or injection equipment-sharing contact with persons listed in subsection (3)(d)(i), (ii), and (iii) of this section;

(v) Have been exposed to or known to have had a sexually transmitted disease at any time since 1977;

(vi) Are at increased risk of HIV infection by definition of United States Public Health Service, Centers for Disease Control;

(vii) Are enrolled in a drug treatment program under chapter 69.54 RCW; or

(viii) Received multiple transfusions of blood, plasma, or blood products from 1977 to 1985.

(e) Encourage individuals assessed to be at other than virtually no risk of HIV infection to:

(i) Receive AIDS risk reduction counseling;

(ii) Consider information about the nature, purpose, and potential ramifications of HIV testing;

(iii) Receive pretest counseling;

(iv) Consider confidential or anonymous voluntary HIV testing if appropriate~~((:))~~ and understand the differences between "anonymous HIV testing" and "confidential HIV testing"; and

(v) "Virtually no risk of HIV infection" means persons with medical histories absent of and reporting none of the following factors:

(A) Transfusion with blood or blood products at any time since 1977;

(B) Residence at any time in countries where HIV is considered endemic since 1977;

(C) Unprotected sex between men at any time since 1977;

(D) Use of intravenous substances at any time since 1977, especially when sharing injection equipment;

(E) Engagement in sex for money or drugs at any time since 1977;

(F) Sexual and/or injection equipment-sharing contacts at any time since 1977 with persons listed in subsection (3)~~(e)((iii))~~ (v)(C), (D), and (E) of this section;

(G) Exposure to a sexually transmitted disease; and

(H) Increased risk of HIV infection by definition of United States Public Health Service, Centers for Disease Control.

(4) Persons and organizations providing AIDS counseling may provide additional or more comprehensive counseling than required in this section.

AMENDATORY SECTION (Amending WSR 97-15-099, filed 7/21/97, effective 7/21/97)

**WAC 246-100-209 Counseling standards—Human immunodeficiency virus (HIV) pretest counseling—HIV post-test counseling.** (1) Health care providers and other persons providing pretest counseling shall:

(a) Assess the individual's risk of acquiring and transmitting HIV by evaluating information about the individual's possible risk-behaviors;

(b) Provide at least one individual counseling session prior to HIV testing;

(c) Inform in writing or orally any individual planning to be tested for HIV that:

(i) Anonymous HIV testing is available through the local health department, home testing kits, or may be available through other community sources, and explain the differences between "anonymous HIV testing" and "confidential HIV testing"; and

(ii) If the test result is positive, ~~((the tested individual needs to notify))~~ sex and injection equipment-sharing partners ~~((that partners))~~, including spouses must be notified that they:

(A) May have been exposed to and infected with HIV; and

(B) Should seek HIV pretest counseling and consider HIV testing; and

~~((ii) Unless HIV testing is anonymous,))~~ (iii) The principal health care provider is required to refer identities of at-risk partners to the local health officer or authorized representative if:

(A) The HIV-infected individual either refuses or is unable to notify partners of exposure, possible infection, and need for pretest counseling and HIV testing; or

(B) The HIV-infected individual neither accepts assistance nor agrees to referral to the local health officer or an authorized representative for assistance in notifying partners; and

~~((iii))~~ (iv) Unless HIV testing is anonymous, the principal health care provider is required to confidentially refer the ~~((identify))~~ identity of the individual testing positive to the local health officer or an authorized representative ~~((if the principal health care provider made efforts, but was unable to meet face-to-face with the individual to:~~

~~(A) Notify the individual of the HIV test result; and~~

~~(B) Provide post-test counseling, as required in this section, to assure partner notification).~~

(2) When an individual is assessed by a counselor or health care provider as "virtually no risk of HIV infection," as defined in WAC 246-100-208 (3)(e)(v) a counselor or the health care provider shall, in addition to subsection (1)(a) of this section:

(a) Maintain a nonjudgmental environment during counseling which:

(i) Considers the individual's particular circumstances; and

(ii) Is culturally, socially, linguistically, and developmentally appropriate to the individual being counseled.

(b) Explain the nature, purpose, value, and reason for the HIV tests;

(c) In writing or orally, inform the individual to be tested that anonymous HIV testing is available through the local health department, home testing kits, or may be available through other community sources, and explain the differences between "anonymous HIV testing" and "confidential HIV testing";

(d) Explain the possible effect of HIV testing and a positive HIV test result related to employment, insurance, housing, and other potential legal, social, and personal consequences;

~~((d))~~ (e) Develop and maintain a system of referral and make referrals that:

(i) Are accessible and confidential for those counseled;

(ii) Are acceptable to and supportive of those counseled;

(iii) Provide assistance to those counseled in maintaining risk reduction behaviors.

~~((e))~~ (f) Provide at least one individual counseling session at the time HIV test results are disclosed to individuals testing positive; and

~~((f))~~ (g) Maintain disclosure and confidentiality requirements in WAC 246-100-016.

(3) If the individual is assessed by a health care provider to be other than "virtually no risk of HIV infection," as defined in WAC 246-100-208 (3)(e)(v), the person providing pretest counseling shall maintain requirements in subsection (1) and (2) of this section and:

(a) Focus counseling on behaviors increasing the risk of HIV acquisition and transmission;

(b) Provide personalized risk reduction education to individuals who:

(i) Are men engaging in unprotected intercourse with other men at any time since 1977;

(ii) Used intravenous substances at any time since 1977, especially those sharing injection equipment;

(iii) Engaged in sex for money or drugs at any time since 1977;

(iv) Have had sexual and/or injection equipment-sharing contacts at any time since 1977 with persons listed in subsection (3)(b)(i), (ii), and (iii) of this section;

(v) Have been exposed to or diagnosed with a sexually transmitted disease;

(vi) Are at increased risk of HIV infection by definition of United States Public Health Services, Centers for Disease Control;

(vii) Are required by RCW 70.24.095 and 70.24.340 to receive HIV counseling and testing.

(c) Inform any individual planning to be tested for HIV of the need to notify sexual and injection equipment-sharing partners, including spouses, if test results are positive;

(d) Advise individuals listed in subsection (3)(b)(i), (ii), and (iii) of this section not to donate or sell blood, blood products, semen, organs, or other body tissues; and

(e) Emphasize or reemphasize the following counseling messages:

(i) The following will eliminate or decrease the risk of HIV infection:

(A) Sexual abstinence;

(B) A mutually monogamous relationship between uninfected people; and

(C) Following safer sex guidelines.

(ii) Do not share intravenous drugs and injection equipment;

(iii) Do not engage in behaviors in which blood, vaginal fluid, or semen is exchanged;

(iv) Condoms, even if used properly, do not supply absolute protection from HIV infection;

(v) Condoms may reduce risk of HIV infection if the condom is:

(A) Latex and used with a water-based lubricant rather than an oil-based lubricant, if a lubricant is used;

(B) Used in conjunction with spermicide during vaginal or anal intercourse; and

(C) Worn from start to finish of vaginal, oral, and anal intercourse.

(vi) Dental dams may reduce risk of HIV infection if the dental dam is:

(A) Latex; and

(B) Used from start to finish of oral intercourse.

(vii) The sexual behaviors having highest risk for HIV infection are those involving the exchange of blood or semen, especially receptive anal and vaginal intercourse;

(viii) Anal intercourse may increase the risk of condom failure and HIV infection;

(ix) Infected women should postpone pregnancy until more is known about how to prevent prenatal and perinatal transmission of HIV infection;

(x) Sexual negotiation skills can be learned to enhance risk reduction; and

(xi) Other sexually transmitted diseases, especially those causing genital ulcers, may increase the risk of acquiring or transmitting HIV infection.

(f) Make those counseled aware HIV retesting at a later date may be necessary or recommended.

(4) Persons providing post-test counseling shall:

(a) Follow requirements in subsection (1) of this section;  
 (b) Provide at least one individual counseling session at the time HIV test results are disclosed for individuals:

- (i) Testing positive for HIV; or
- (ii) Reporting practice of behaviors listed in (3)(b)(i), (ii), and (iii) of this section.

(c) If the individual being counseled tested positive for HIV infection:

(i) Unless testing was anonymous, remind the individual that the identity of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer;

(ii) Provide assistance to persons in notifying partners, including spouses, and confirm those partners including spouses have been notified; and/or

~~((iii) Offer)~~ (iii) Seek agreement to refer the name of the individual(s) to the local health officer (as necessary) for assistance in notifying partners; and/or

~~((iii))~~ (iv) Offer to refer partners for counseling and testing; and

~~((iv))~~ (v) Develop or adopt a system to avoid documenting the names of referred partners in the permanent record of the individual being counseled; and

~~((v))~~ (vi) Offer referral for alcohol and drug and mental health counseling, including suicide prevention, if appropriate; and

~~((vi))~~ (vii) Provide or refer for medical evaluation and antiretroviral treatment; and

(viii) Refer for tuberculosis screening.

**AMENDATORY SECTION** (Amending WSR 95-13-037, filed 6/14/95, effective 7/15/95)

**WAC 246-100-236 Duties of laboratories—Reporting of laboratory results indicative of certain reportable diseases.** (1) By December 31, 1987, medical laboratories which perform testing or are responsible for referring the specimen to an out-of-state laboratory for testing shall:

(a) Report each positive culture or other suggestive test results to the local health officer by phone, written report, or submission of specimen within two working days, unless specified otherwise, for:

- (i) Anthrax (*Bacillus anthracis*),
- (ii) Botulism (*Clostridium botulinum*),
- (iii) Cholera (*Vibrio cholerae*),
- (iv) Diphtheria (*Corynebacterium diphtheriae*) - toxigenic strains,
- (v) Gonorrhea (*Neisseria gonorrhoeae*) (report within seven days),
- (vi) Measles (rubeola) (measles virus),
- (vii) Plague (*Yersinia pestis*),
- (viii) Rabies (rabies virus),
- (ix) Brucellosis (*Brucella* species),
- (x) Leptospirosis (*Leptospira interrogans*),
- (xi) Listeria infection of blood or spinal fluid (*Listeria monocytogenes*),
- (xii) Meningococcal infection of blood or spinal fluid (*N. meningitidis*),
- (xiii) Pertussis (*Bordetella pertussis*),

- (xiv) Salmonellosis (*Salmonella* species),
- (xv) Shigellosis (*Shigella* species), and
- (xvi) Hepatitis A (positive anti-HAV IgM),
- (xvii) Mycobacteriosis,

(xviii) Human immunodeficiency virus (HIV), including positive Western Blot assays, P24 antigen or viral culture tests,

(xix) CD4+(T4) lymphocyte counts less than 200 and/or CD4+(T4) percents less than fourteen percent of total lymphocytes, for patients aged thirteen or older, or positive results on HIV nucleic acid tests (RNA or DNA), (report monthly or quarterly).

(b) For the diseases and conditions listed in (a)(i) through (xvii) of this subsection, send a copy of the state form accompanying specimen submitted as required in WAC 246-100-231 or identifying information including:

- (i) Type of specimen tested (e.g., serum or sputum),
- (ii) Test result,
- (iii) Name of reporting laboratory,
- (iv) Date of report,
- (v) Name of requesting health care provider or health care facility, and
- (vi) Name of patient.

(c) After September 1, 1999, for the diseases and conditions listed in (a)(xviii) and (xix) of this subsection, upon written request of the state department of health, send to the state or local health department identifying information including:

- (i) Type of specimen tested (e.g., serum),
- (ii) Test result,
- (iii) Name of reporting laboratory,
- (iv) Date of report,
- (v) Name of requesting health care provider or health care facility,
- (vi) Name of patient, if submitted by the health care provider, or other patient identifier if the name is not submitted by the health care provider, and
- (vii) Patient date of birth and gender, if submitted by the health care provider.

(2) By December 31, 1987, medical laboratories shall report positive cultures or other suggestive test results for chlamydial infection (*Chlamydia trachomatis*) to local health departments monthly including either:

- (a) Identifying information specified in subsection (1)(b)(i-vi) of this section, or
- (b) Aggregate numbers of positive tests including age, sex, and site of infection when known.

(3) Medical laboratories shall label or stamp reports appropriately with information indicating "reportable disease" and the telephone number of the local health department, if such labels or stamps are provided by the local health department.

(4) State and local health officers and health departments receiving reports from medical laboratories shall:

- (a) Allow time for the laboratory to notify the principal health care provider prior to contact if:
  - (i) Delay is unlikely to jeopardize public health, and
  - (ii) The laboratory requests a delay.

PERMANENT

(b) Try to contact the principal health care provider and discuss circumstances prior to contact of a patient when possible.

~~((5) By June 1995, medical laboratories performing CD4+ (T4) tests or sending specimens for CD4 testing out of state shall submit to the state HIV/AIDS office monthly or quarterly reports on the enumeration of CD4+ (T4) lymphocyte counts (CD4+ counts) and CD4+ (T4) percents of total lymphocytes (CD4+ percents) for specimens submitted after January 1, 1995, of patients aged thirteen or older with CD4+ counts less than two hundred or CD4+ percents less than fourteen. Laboratories may, but are not required to, exclude information concerning specimens which are unrelated to HIV infection or performed in conjunction with medical research, but otherwise shall report the following information:~~

~~(a) Patient specific identifier or anonymous code or, if authorized by the patient, the patient's name submitted to the laboratory; and~~

~~(b) Name of the patient's health care provider; and~~

~~(c) Address of patient's health care provider; and~~

~~(d) CD4+ count (and CD4+ percent if available); and~~

~~(e) Date of CD4+ count or CD4+ percent.) (c) Comply with the requirements of WAC 246-100-036(2).~~

**WSR 99-17-093**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 17, 1999, 11:44 a.m., effective December 1, 1999]

Date of Adoption: August 17, 1999.

Purpose: Chapter 296-24 WAC, Part A-1, General, educational, medical and first-aid.

Topic: Accident prevention programs.

Purpose: The purpose of this change is to create within WAC 296-24-040 a central reference listing of all chapters that specify the development of specific requirements within an accident prevention plan for various industries and operations. There are twenty-five WISHA chapters that require employers to develop specific processes, activities, or instructions within their accident prevention plans. We are adopting a reference list of the various chapters having specific accident prevention program requirements to WAC 296-24-040. We anticipate this action will improve the employer's ability to determine the specific standards that have accident prevention program requirements applicable to their operation or industry. The adopted rule has also been rewritten using clear rule writing principles for clarification purposes.

Citation of Existing Rules Affected by this Order: Amending WAC 296-24-040.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Adopted under notice filed as WSR 99-10-072 on May 4, 1999.

Changes Other than Editing from Proposed to Adopted Version: (1) Deleted the "subnote" which states: "The accident prevention program must be tailored to the needs of the

particular plant or operation and to the type of hazards involved. This means that recognized hazards, such as vehicle use, workplace violence, emergency washing facilities, and musculoskeletal disorders, etc., differ...as part of the accident prevention program." (2) Changed (1)(a)(i) through (1)(a)(vii) to bullets to indicate one requirement. Also, reinserted the language, "The department may be contacted for assistance in developing appropriate programs," which is currently in the existing standard.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: December 1, 1999.

August 17, 1999

Gary Moore

Director

**AMENDATORY SECTION** (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-24-040 Accident prevention programs.** Each employer ~~((shall))~~ must develop a formal accident-prevention program, tailored to the needs of the particular plant or operation and to the type of hazards involved. The department may be contacted for assistance in developing appropriate programs.

(1) The ~~((following are the))~~ minimal program elements for all employers are:

(a) A safety orientation program describing the employer's ~~((safety))~~ formal accident prevention program and including the following:

~~((i))~~ • How and when to report injuries, including instruction as to the location of first-aid facilities.

~~((ii))~~ • How to report unsafe conditions and practices.

~~((iii))~~ • The use and care of required personal protective equipment.

~~((iv))~~ • The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

~~((v))~~ • Identification of the hazardous gases, chemicals or materials involved along with the instructions on the safe use and emergency action following accidental exposure.

~~((vi))~~ • A description of the employer's total safety program.

~~((vii))~~ • An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(b) A designated safety and health committee consisting of management and employee representatives with the employee representatives being elected or appointed by fellow employees.

(2) Each accident-prevention program ((shall)) must be outlined in ((written-format)) writing.

**Note: What other written accident prevention program requirements may apply? The accident prevention plan information and/or documentation required by the following chapters can be part of the accident prevention program itself, or they can be covered in supplemental documents.**

<u>First-aid requirements</u>	<u>WAC 296-24-061</u>	<u>If an employer chooses Option 1 for first-aid response, the requirements must be in writing in accordance with the standard.</u>
<u>Personal protective equipment</u>	<u>Chapter 296-24 WAC, Part A-2</u>	<u>The employer must provide a written certification that a workplace hazard assessment has been performed.</u>
<u>Safety procedure-control of hazardous energy (lockout/tagout)</u>	<u>Chapter 296-24 WAC, Part A-4</u>	<u>The employer shall establish a written program consisting of an energy control procedure in accordance with the standard.</u>
<u>Hazard communication</u>	<u>Chapter 296-62 WAC, Part C</u>	<u>If workers use or are exposed to chemicals, employers are required to have a written program.</u>
<u>Respiratory protection</u>	<u>Chapter 296-62 WAC, Part E</u>	<u>If the use of a respirator is needed because a hazard exists, a written program is required.</u>
<u>Hearing conservation</u>	<u>Chapter 296-62 WAC, Part K</u>	<u>If employees work in a high noise environment as defined by the standard, the employer must establish a hearing conservation program. Each employer shall maintain a written description of the training program instituted.</u>
<u>Confined space</u>	<u>Chapter 296-62 WAC, Part M</u>	<u>If the employer decides that its employees will enter permit spaces, the employer is required to develop and implement a written permit confined space program.</u>
<u>Biological agents</u>	<u>Chapter 296-62 WAC, Part J</u>	<u>Each employer having employees with occupational exposures as defined by the standard is required to establish a written exposure control plan.</u>
<u>Late night retail</u>	<u>Chapter 296-24 WAC, Part A-3</u>	<u>If a retail employer has employees working between 11:00 p.m. and 6:00 a.m., crime prevention training shall be a part of the accident prevention program.</u>
<u>Means of egress</u>	<u>Chapter 296-24 WAC, Part G-1</u>	<u>If an employer must have an emergency action plan as a requirement of another standard (i.e., process safety management, grain handling, air contaminates) it must be developed and in writing in accordance with the standard.</u>
<u>Welding, cutting and brazing</u>	<u>Chapter 296-24 WAC, Part I</u>	<u>Rules and instructions for the operation and maintenance of oxygen or fuel-gas supply equipment must be readily available in accordance with the standard.</u>

PERMANENT



<u>Powered platforms, etc.</u>	<u>Chapter 296-24 WAC, Part J-2</u>	<u>If employees use working platforms, written work procedures for the operation, safe use, and inspection must be provided for training in accordance with the standard.</u>
<u>Carcinogens (cancer causing)</u>	<u>Chapter 296-62 WAC, Part G</u>	<u>If employees are exposed to carcinogens, employers are required to implement a written program to reduce exposure to or below permissible limits.</u>
<u>Air contaminants (specific)</u>	<u>Chapter 296-62 WAC, Part I</u>	<u>If employees are exposed to air contaminants listed in this chapter, employers must establish and implement a written compliance program in accordance with the standard.</u>
<u>Asbestos, tremolite, anthophyllite and actinolite</u>	<u>Chapter 296-62 WAC, Part I-1</u>	<u>If employees are exposed to asbestos, tremolite, anthophyllite and actinolite, employers must establish and implement a written program to reduce employee exposure to or below the permissible limit.</u>
<u>Coke ovens</u>	<u>Chapter 296-62 WAC, Part O</u>	<u>If an employer operates coke ovens, they must implement a written program to reduce employee exposure in accordance with the standard.</u>
<u>Hazardous waste operations</u>	<u>Chapter 296-62 WAC, Part P</u>	<u>If employees are involved in hazardous waste operations, employers must develop and implement a written safety and health program in accordance with the standard.</u>
<u>Hazardous chemicals in laboratories</u>	<u>Chapter 296-62 WAC, Part Q</u>	<u>If employees are exposed to hazardous chemicals in laboratories, employers must develop and carry out the provisions of a written chemical hygiene plan in accordance with this standard.</u>
<u>Safety standards for process safety management of highly hazardous chemicals</u>	<u>Chapter 296-67 WAC</u>	<u>If employees work with toxic, reactive, flammable, or explosive chemicals, employers must develop a written plan as required by the standard.</u>
<u>Telecommunications</u>	<u>Chapter 296-32 WAC</u>	<u>There are additional accident prevention program requirements.</u>
<u>Diving operations</u>	<u>Chapter 296-37 WAC</u>	<u>The employer shall develop and maintain a safe practice manual.</u>
<u>Electrical workers</u>	<u>Chapter 296-45 WAC</u>	<u>There are additional accident prevention program requirements for employees working on or around high voltage.</u>
<u>Ski area facilities and operations</u>	<u>Chapter 296-59 WAC</u>	<u>The employer shall develop a written safety program.</u>
<u>Grain handling facilities</u>	<u>Chapter 296-99 WAC</u>	<u>The employer shall develop and implement a written housekeeping program.</u>
<u>Fire fighters</u>	<u>Chapter 296-305 WAC</u>	<u>The fire department shall develop a risk management policy that can be implemented into the function of incident command and the development on incident strategies.</u>

AgricultureChapter 296-307 WAC

Agricultural employees are not covered by chapter 296-24 WAC, but agricultural employers must follow the accident prevention program requirements in WAC 296-307-030, as well as any other applicable standards referenced in this note.

Note:

- In chapter 296-27 WAC and elsewhere, there are recordkeeping requirements of which employers need to be aware.

Certain job specific activities need written, site or activity specific work plans (for example, the fall protection work plan and lead exposure in construction work).

and illustrations in chapter 296-155 WAC, Part N were made due to stakeholder request.

**Changes to chapter 296-24 WAC, General safety and health standards:**

**Federal Initiated Changes****Amended section WAC 296-24-12002 Definitions.**

Adopted rule eliminates subsection (1), "Lavatory," as the definition was considered self-explanatory within the context of the section. This change was proposed to be like the federal rule in 29 C.F.R. 1910.141 (a)(1)(i).

**Amended section WAC 296-24-47505 Basic rules.**

Adopted rule eliminates the requirements in subsection (15)(f), (g), and (h), this subsection relates to tank car or transport truck loading or unloading points. These changes are made to be like federal rule 29 C.F.R. 1910.110 (b)(15). The requirements pertain to the design of transportation vehicles and the safe location of such vehicles during loading and unloading operations, which fall under the jurisdiction of the Department of Transportation.

**Amended section WAC 296-24-47507 (2)(b), (c), and (d) Cylinder systems.** Adopted rule eliminates specifications for marking LPG cylinders, to be like federal rule 29 C.F.R. 1910.110 (c)(2), which were a duplication of the Department of Transportation requirements.

**Amended section WAC 296-24-47511(10) Liquefied petroleum gas as a motor fuel.** Adopted rule eliminates requirements in WAC 296-24-47511(10), pertaining to passenger carrying vehicles, to be like federal rule 29 C.F.R. 1910.110(e), which fall under the jurisdiction of the Department of Transportation.

**Repealed section WAC 296-24-47515 LP gas system installations on commercial vehicles.** Adopted repeal eliminates requirements pertaining to installing LP-gas systems on commercial vehicles, to be like federal rule 29 C.F.R. 1910.110(g), which fall under the jurisdiction of the Department of Transportation.

**Amended section WAC 296-24-51017 Storage and handling of anhydrous ammonia, systems mounted on trucks, semi-trailers, and trailers for transportation of ammonia.** Adopted rule eliminates requirements in subsections (8) and (10) regarding safety requirements to protect full trailers and semi-trailers that transport ammonia, from collision, to be like federal rule 29 C.F.R. 1910.111(f), which fall under the jurisdiction of the Department of Transportation.

**WISHA Proposed Changes**

**Amended section WAC 296-24-23529 Operators. (Part D).** Adopted rule makes a WISHA change to subsection (2), which clarifies requirements for authorized crane

**WSR 99-17-094****PERMANENT RULES****DEPARTMENT OF****LABOR AND INDUSTRIES**

[Filed August 17, 1999, 11:47 a.m., effective December 1, 1999]

Date of Adoption: August 17, 1999.

Purpose: Miscellaneous changes to chapters 296-24, 296-32, 296-52, 296-62, 296-155, and 296-301 WAC. On June 18, 1998, OSHA adopted miscellaneous changes to a number of federal rules within 29 C.F.R. 1910 and 1926 (General Industry and Construction Standards). The Department of Labor and Industries has adopted amendments to 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 include: Chapter 296-24 WAC, General safety and health standards; chapter 296-32 WAC, Safety standards for telecommunications; chapter 296-62 WAC, General occupational health standards; chapter 296-52 WAC, Safety standards for possession and handling of explosives; chapter 296-155 WAC, Safety standards for construction work; and chapter 296-301 WAC, Safety standards for the textile industry.

Amendments adopted incorporate those changes from 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). These amendments clarify rules, eliminate duplications, and delete current WISHA requirements under the jurisdiction of the federal Department of Transportation.

In addition, WISHA adopted changes to chapter 296-52 WAC, which reduces fees to 1995 levels due to requirements of chapter 43.135 RCW and includes the requirement of a Social Security number from RCW 26.23.150 when requesting licenses. WISHA changes to chapter 296-62 WAC, Parts G and I remove references to Appendices, which were repealed in the respiratory protection project, also within Part R, a reference was corrected. Also, clarifications to requirements for crane operators in chapter 296-24 WAC, Part D,

operators in that they must be able to communicate with others at the worksite and be at least eighteen years of age.

**Changes to chapter 296-32 WAC, Safety standards for telecommunications:**

#### Federal Initiated Changes

**Amended section WAC 296-32-260 Rubber insulating equipment.** Adopted rule eliminates duplication of requirements within subsections (1), (4), (6), (7), (8), and (10)(b), to be like federal rule 29 C.F.R. 1910.268. These requirements are currently identified in WAC 296-24-092.

**Changes to chapter 296-52 WAC, Safety standards for possession and handling of explosives:**

#### Federal Initiated Changes

**Amended section WAC 296-52-477 Quantity and distance table for separations between magazines, Table H-21, note 4.** Adopted rule clarifies that the table only applies to the storage of explosives in magazines and is being proposed to be like federal rule 29 C.F.R. 1910.109 (c)(1)(vi).

**Amended section WAC 296-52-489 Transportation.** Adopted rule changes subsection (7)(a), to be like federal rule 29 C.F.R. 1910.109 (d)(1)(iv). This allows for transportation of blasting caps on a vehicle that is carrying other explosives when doing so in accordance with methods specified in the Department of Transportation regulations of 49 C.F.R. 177.835 (g)(3)(I).

**Amended section WAC 296-52-493 Use of explosives and blasting agents.** Adopted rule changes subsection (2)(a), to be like federal rule 29 C.F.R. 1910.109 (e)(2)(i), which allows for the reuse of uncontaminated containers and packaging materials if such reuse is accomplished in accordance with the Department of Transportation criteria contained in 49 C.F.R. 173.28.

#### WISHA Proposed Changes

**Amended section WAC 296-52-421 Licenses—Information and verification.** Adopted rule makes a WISHA change to subsection (1), to require a Social Security number when applying for a license, as required by RCW 26.23.150.

Adopted rule makes WISHA changes to the following WACs, which decreases license fees to 1995 levels, to comply with chapter 43.135 RCW, requirements. Amended section WAC 296-52-425 Dealer's license, subsection (2), 296-52-429 License for manufacturing, subsection (2), 296-52-433 Purchaser's license, subsection (3), 296-52-437 User's (blaster's) license, subsection (2)(h), and 296-52-449 Storage magazine license fees, changes to fee schedule for operating each magazine.

**Changes to chapter 296-62 WAC, General occupational health standards:**

#### Federal Initiated Changes

**Amended section WAC 296-62-07347 Inorganic arsenic.** Adopted rule decreases requirements in subsection (14)(c)(ii), Periodic examinations, pertaining to x-rays as part of these examinations from semi-annually to annually, to be like federal rule 29 C.F.R. 1910.1018 (n)(2), (n)(3). Changes

in WAC 296-62-07347 (17)(b)(iii)(F), Medical surveillance, amendment eliminates the requirement for cytologic examinations, to be like federal rule 29 C.F.R. 1910.1018 (q)(2).

**Amended section WAC 296-62-07354 Appendices—Inorganic arsenic.** Adopted rule decreases the requirements in Appendix C—Medical surveillance guidelines (3)(a)(iii) to update medical history and make sputum cytology testing optional. In subsection (3)(a)(iv) requirements have been minimized to tests required in the initial exam, and updated medical history, to be like federal rule 29 C.F.R. 1910.1018, Appendix A and C.

**Amended section WAC 296-62-20017 Medical surveillance.** Adopted rule decreases the requirements for x-rays from semi-annually to annually in subsection (3), Periodic examinations to be like federal rule 29 C.F.R. 1910.1029 (j)(3).

**Amended section WAC 296-62-20027 Appendix A—Coke oven emissions substance information sheet.** Adopted rule decreases requirements for x-rays from semi-annually to annually in subsection VI, Medical examinations and clarifies the need for the examination to be like federal rule 29 C.F.R. 1910.1029, Appendix A.

**Amended section WAC 296-62-20029 Appendix B—Industrial hygiene and medical surveillance guidelines.** Adopted rule decreases the minimum requirements in subsection II, Medical surveillance guidelines by requiring the examinations only for workers who work at least thirty days in the regulated area, deleting the requirement for sputum cytology exams and changing x-ray requirements from semi-annual to annual. These changes are adopted to be like federal rule 29 C.F.R. 1910.1029, Appendix B.

#### WISHA Proposed Changes

**Amended section WAC 296-62-07433 Appendices.** Adopted rule makes a WISHA change by deleting subsection (1) which removes wording that incorporates the mandatory fit testing requirements of Appendix C, of WAC 296-62-07445, which was repealed as part of the respiratory protection project.

**Amended section WAC 296-62-07542 Appendix A—Substances technical guideline for formalin.** Adopted rule makes a WISHA change to subsection (1)(i) by deleting (B), the fit testing requirements, contained in Appendix E, of WAC 296-62-07550, which was repealed as part of the respiratory protection project.

**Amended section WAC 296-62-41025 Refresher training.** Adopted rule makes a WISHA change to subsection (1) to include a corrected reference.

**Changes to chapter 296-155 WAC, Safety standards for construction work:**

#### Federal Initiated Changes

**Amended section WAC 296-155-270 Flammable and combustible liquids.** Adopted rule makes a change to subsection (1)(a), which decreases requirements regarding the storing or handling of flammable liquids of five gallons or less. These amendments are made to be like federal rule 29

C.F.R. 1910.152 (a)(1), which allows for use of the Department of Transportation approved safety cans.

### WISHA Proposed Changes

**Amended section WAC 296-155-66403 Appendix B—Sloping and benching.** Adopted rule clarifies these requirements by correcting illustrations in Figures N-8, N-9 and N-14.

**Changes to chapter 296-301 WAC, Safety standards for the textile industry:**

### Federal Initiated Changes

**Amended section WAC 296-301-020 General safety requirements.** Adopted rule makes a change to subsection (3), Machine guarding, which now references requirements found in WAC 296-24-205, to eliminate duplication. In subsection (4), Housekeeping, outdated references to requirements in WAC 296-24-120 through 296-24-12015 have been corrected to WAC 296-24-735 through 296-24-73505. The adopted amendments are to be like federal rule 29 C.F.R. 1910.262.

**Amended section WAC 296-301-170 Clothing folding machine.** Adopted rule makes a change by referencing requirements found in WAC 296-24-195 through 296-24-19513 to eliminate duplication.

**Amended section WAC 296-301-195 Open tanks and vats for mixing and storage of hot or corrosive liquids.** Adopted rule eliminates duplication of requirements to WAC 296-24-750 through 296-24-75011 in subsection (1).

**Amended section WAC 296-301-220 Personal protective equipment.** Within subsection (1), adopted rule removes outdated references to WAC 296-24-081 through 296-24-08113, and eliminates duplication of requirements found in WAC 296-24-07501 and 296-24-07801. Also, within subsection (2), referenced requirements to WAC 296-24-081 through 296-24-08113 were corrected to identify appropriate references to chapter 296-62 WAC, Part E, Respiratory protection.

Citation of Existing Rules Affected by this Order:

**AMENDED SECTIONS:** Chapter 296-24 WAC, General safety and health standards, and WAC 296-24-12002 Definitions, 296-24-47505 Basic rules, 296-24-47507 Cylinder systems, 296-24-47511 Liquefied petroleum gas as a motor fuel, 296-24-51017 Storage and handling of anhydrous ammonia, systems mounted on trucks, semi-trailers, and trailers for transportation of ammonia, and 296-24-23529 Operators.

Chapter 296-32 WAC, Safety standards for telecommunications, and WAC 296-32-260 Rubber insulating equipment.

Chapter 296-52 WAC, Safety standards for possession and handling of explosives, and WAC 296-52-477 Quantity and distance table for separations between magazines, Table H-21, note 4, 296-52-489 Transportation, 296-52-493 Use of explosives and blasting agents, 296-52-421 Licenses—Information and verification, 296-52-425 Dealer's license, 296-52-429 License for manufacturing, 296-52-433 Purchaser's license, 296-52-437 User's (blaster's) license, and 296-52-449 Storage magazine license fees.

Chapter 296-62 WAC, General occupational health standards, and WAC 296-62-07347 Inorganic arsenic, 296-62-07354 Appendices—Inorganic arsenic, 296-62-20017 Medical surveillance, 296-62-20027 Appendix A—Coke oven emissions substance information sheet, 296-62-20029 Appendix B—Industrial hygiene and medical surveillance guidelines, 296-62-07433 Appendices, 296-62-07542 Appendix A—Substances technical guideline for formalin, and 296-62-41025 Refresher training.

Chapter 296-155 WAC, Safety standards for construction work, and WAC 296-155-270 Flammable and combustible liquids, and 296-155-66403 Appendix B—Sloping and benching.

Chapter 296-301 WAC, Safety standards for the textile industry, and WAC 296-301-020 General safety requirements, 296-301-170 Clothing folding machine, 296-301-195 Open tanks and vats for mixing and storage of hot or corrosive liquids, and 296-301-220 Personal protective equipment.

**REPEALED SECTIONS:** Chapter 296-24 WAC, General safety and health standards, and WAC 296-24-47515 LP gas system installations on commercial vehicles.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, [49.17].050.

Adopted under notice filed as WSR 99-12-089 on June 1, 1999.

Changes Other than Editing from Proposed to Adopted Version: Clarifications and corrections were made to the figures in WAC 296-155-66403.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 19, Repealed 1; 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 11, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 30, Repealed 1.

Effective Date of Rule: December 1, 1999.

August 17, 1999

Gary Moore

Director

**AMENDATORY SECTION** (Amending Order 92-06, filed 10/30/92, effective 12/8/92)

**WAC 296-155-66403 Appendix B—Sloping and benching.** (1) Scope and application. This appendix contains specifications for sloping and benching when used as methods of protecting employees working in excavations from cave-ins. The requirements of this appendix apply when the design of sloping and benching protective systems is to be

performed in accordance with the requirements set forth in WAC 296-155-657 (2)(b).

(2) Definitions.

(a) Actual slope. The slope to which an excavation face is excavated.

(b) Distress. Soil that is in a condition where a cave-in is imminent or is likely to occur. Distress is evidenced by such phenomena as the development of fissures in the face of or adjacent to an open excavation; the subsidence of the edge of an excavation; the slumping of material from the face or the bulging or heaving of material from the bottom of an excavation; the spalling of material from the face of an excavation; and raveling, i.e., small amounts of material such as pebbles or little clumps of material suddenly separating from the face of an excavation and trickling or rolling down into the excavation.

(c) Maximum allowable slope. The steepest incline of an excavation face that is acceptable for the most favorable site conditions as protection against cave-ins, and is expressed as the ratio of horizontal distance to vertical rise (H:V).

(3) Requirements.

(a) Soil classification. Soil and rock deposits shall be classified in accordance with appendix A of this Part.

(b) Maximum allowable slope. The maximum allowable slope for a soil or rock deposit shall be determined from Table N-1 of this appendix.

(c) Actual slope.

(i) The actual slope shall not be steeper than the maximum allowable slope.

(ii) The actual slope shall be less steep than the maximum allowable slope, when there are signs of distress. If that situation occurs, the slope shall be cut back to an actual slope which is at least 1/2 horizontal to one vertical (1/2H:1V) less steep than the maximum allowable slope.

(iii) When surcharge loads from stored material or equipment, operating equipment, or traffic are present, a competent person shall determine the degree to which the actual slope must be reduced below the maximum allowable slope, and shall assure that such reduction is achieved. Surcharge loads from adjacent structures shall be evaluated in accordance with WAC 296-155-655(9).

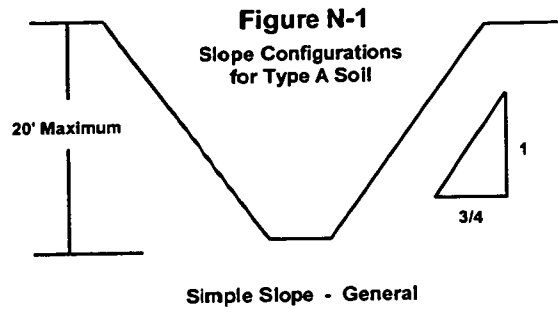
(d) Configurations. Configurations of sloping and benching systems shall be in accordance with Figures N-1 through N-18.

TABLE N-1  
MAXIMUM ALLOWABLE SLOPES

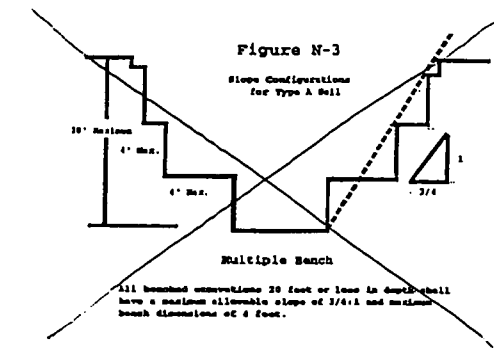
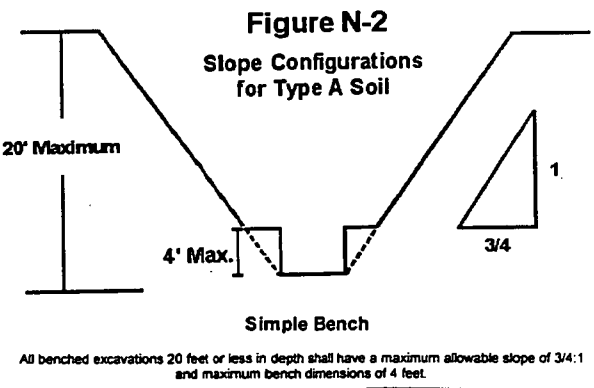
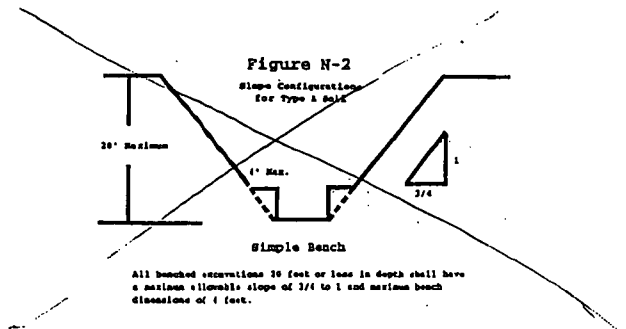
SOIL OR ROCK TYPE	MAXIMUM ALLOWABLE SLOPES (H <sub>1</sub> V) <sup>(1)</sup> FOR EXCAVATION LESS THAN 20 FEET DEEP <sup>(2)</sup>
STABLE ROCK	VERTICAL (90°)
TYPE A	3/4 : 1 (53°)
TYPE B	1 : 1 (45°)
TYPE C	1 1/2 : 1 (34°)

Notes:

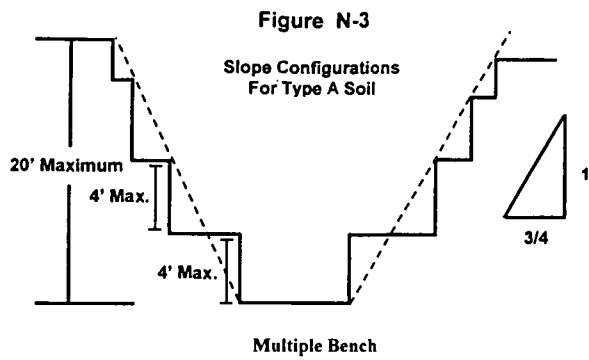
- (1) Numbers shown in parentheses next to maximum allowable slopes are angles expressed in degrees from the horizontal. Angles have been rounded off.
- (2) Sloping or benching for excavations greater than 20 feet deep shall be designed by a registered professional engineer.



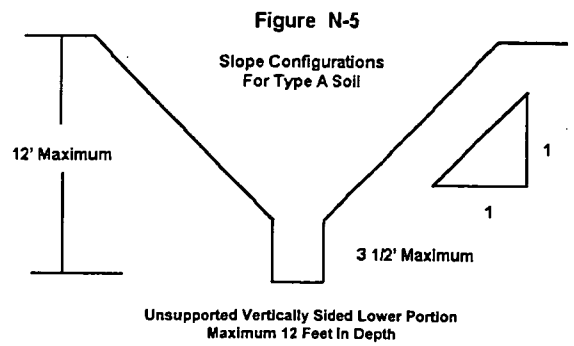
All simple slope excavations 20 feet or less in depth shall have a maximum allowable slope of 3/4:1.



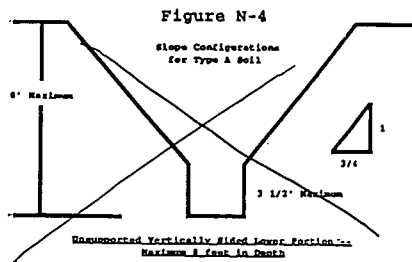
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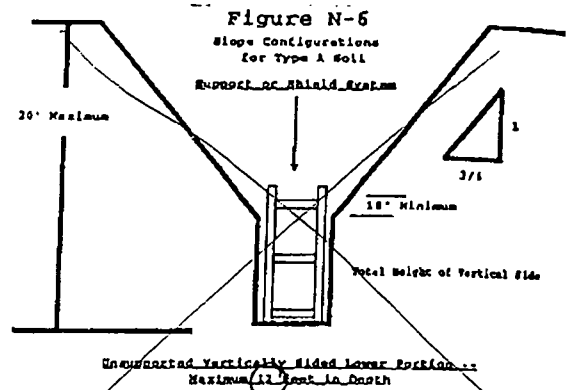
All benched excavations 20 feet or less in depth shall have a maximum allowable slope of 3/4:1 and maximum bench dimensions of 4 feet.



All excavations more than 8 feet but not more than 12 feet in depth which have unsupported vertically sided lower portions shall have a maximum allowable slope of 1:1 and vertical side of 3 1/2 feet.

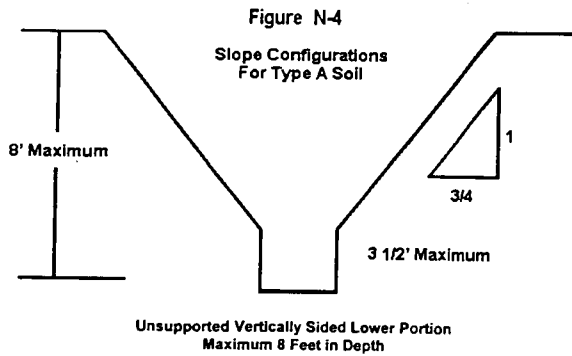


All excavations 8 feet or less in depth which have unsupported vertically sided lower portions shall have a maximum vertical side of 3 1/2 feet.

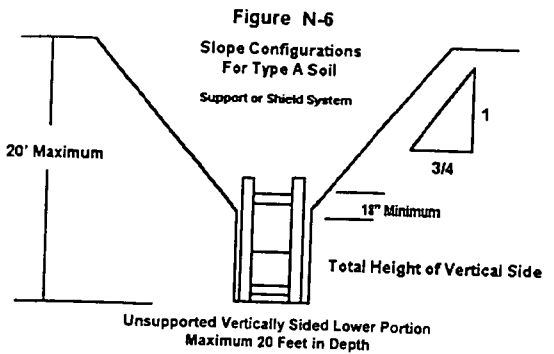


All excavations 18 feet or less in depth which have vertically sided lower portions that are supported or shielded shall have a maximum allowable slope of 3/4:1. The support or shield system must extend at least 18 inches above the top of the vertical side.

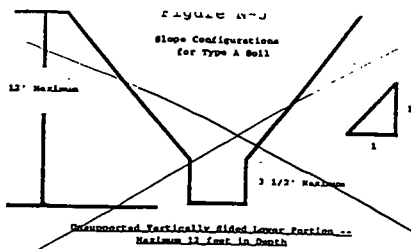
All other simple slope, compound slope, and vertically sided lower portion excavations shall be in accordance with other options permitted under WAC 296-155-037(2).



All excavations 8 feet or less in depth which have unsupported vertically sided lower portions shall have a maximum vertical side of 3 1/2 feet.

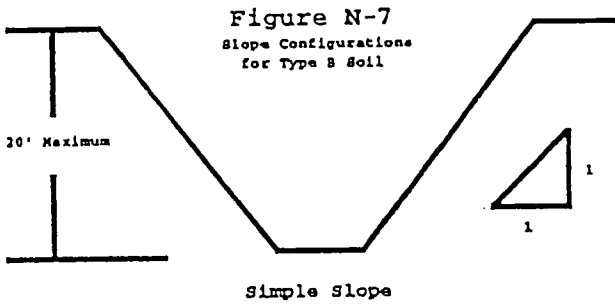


All excavations 20 feet or less in depth which have vertically sided lower portions that are supported or shielded shall have a maximum allowable slope of 3/4:1. The support or shield system must extend at least 18 inches above the top of the vertical side. All other simple slope, compound slope and vertically sided lower portion excavations shall be in accordance with options permitted under WAC 296-155-037(2).

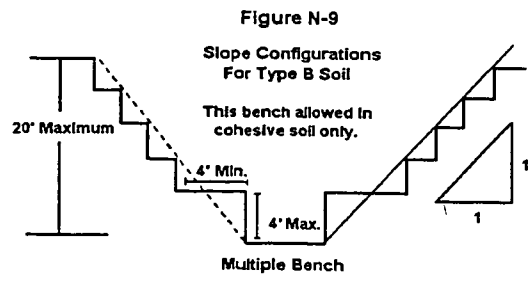


All excavations more than 8 feet but not more than 12 feet in depth with unsupported vertically sided lower portions shall have a maximum allowable slope of 1:1 and a maximum vertical side of 3 1/2 feet.

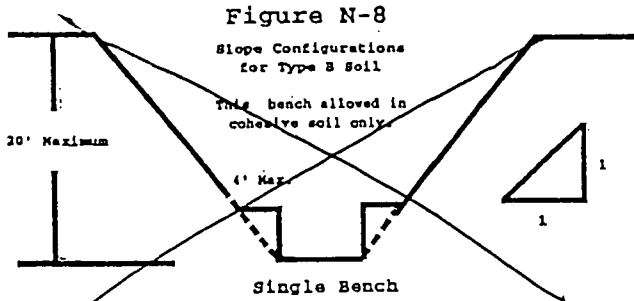
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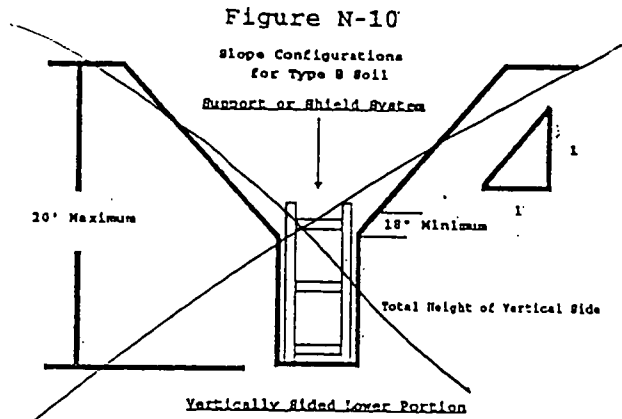
All simple slope excavations 20 feet or less in depth shall have a maximum allowable slope of 1:1



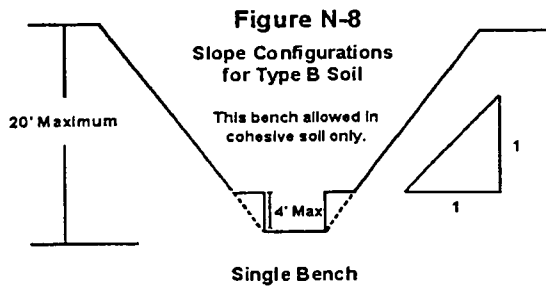
All excavations 20 feet or less in depth shall have a maximum allowable slope of 1:1 and maximum bench dimensions of 4 feet.



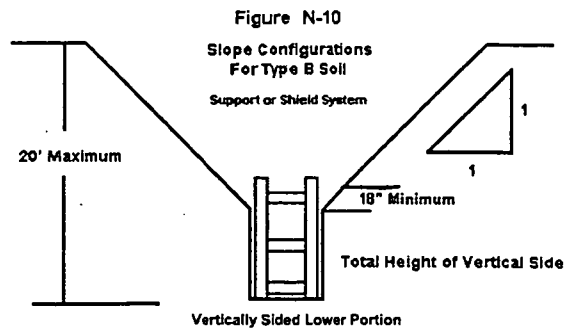
All benched excavations 20 feet or less in depth shall have a maximum allowable slope of 1:1 and maximum bench dimensions of 4 feet.



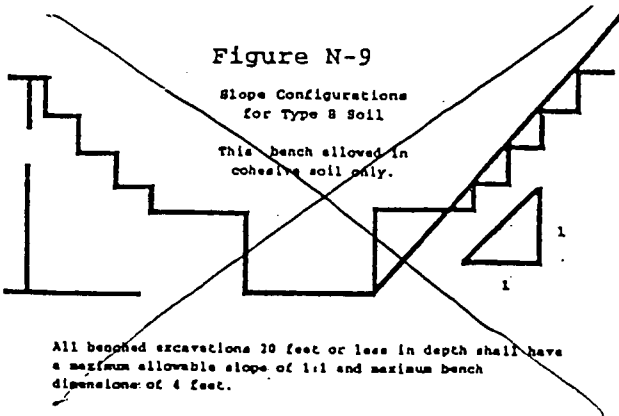
All excavations 20 feet or less in depth which have vertically sided lower portions shall be shielded or supported to a height at least 18 inches above the top of the vertical side; All such excavations shall have a maximum allowable slope of 1:1



All excavations 20 feet or less in depth shall have a maximum allowable slope of 1:1 and maximum bench dimensions of 4 feet.



All excavations 20 feet or less in depth which have vertically sided lower portions shall be shielded or supported to a height at least 18 inches above the top of the vertical side. All such excavations shall have a maximum allowable slope of 1:1. All other simple slope, compound slope and vertically sided lower portion excavations shall be in accordance with options permitted under WAC 296-155-657(2).

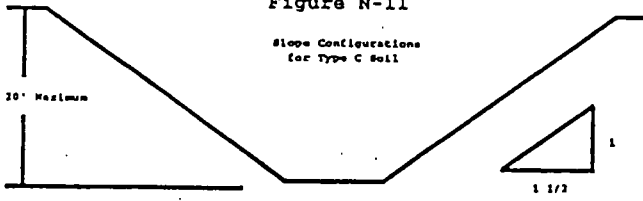


All benched excavations 20 feet or less in depth shall have a maximum allowable slope of 1:1 and maximum bench dimensions of 4 feet.

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Figure N-11

Slope Configurations for Type C Soil

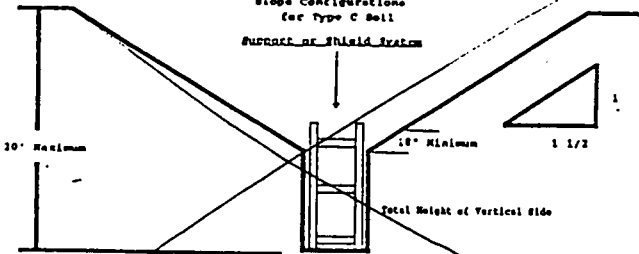


Simple Slope

All simple slope excavations 20 feet or less in depth shall have a maximum allowable slope of 1 1/2:1

Figure N-12

Slope Configurations for Type C Soil Support or Shield System

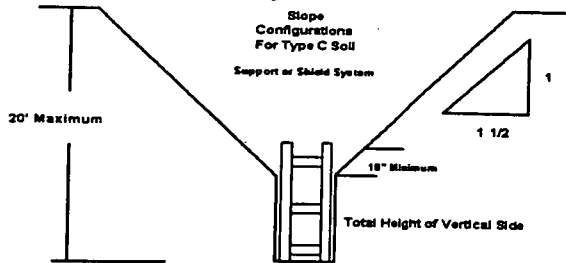


Vertically Sided Lower Portion

All excavations 20 feet or less in depth which have vertically sided lower portions shall be shielded or supported to a height of at least 18 inches above the top of the vertical side. All such excavations shall have a maximum allowable slope of 1 1/2:1

Figure N-12

Slope Configurations For Type C Soil Support or Shield System



Vertically Sided Lower Portion

All excavations 20 feet or less in depth which have vertically sided lower portions shall be shielded or supported to a height of at least 18 inches above the top of the vertical side. All such excavations shall have a maximum allowable slope of 1 1/2:1. All other simple slope, compound slope and vertically sided lower portion excavations shall be in accordance with options permitted under WAC 296-155-657(2).

EXCAVATIONS MADE IN LAYERED SOILS

All excavations 20 feet or less in depth made in layered soils shall have a maximum allowable slope for each layer as set forth below.

Figure N-13

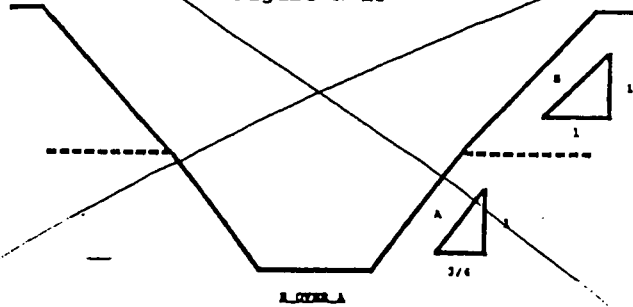
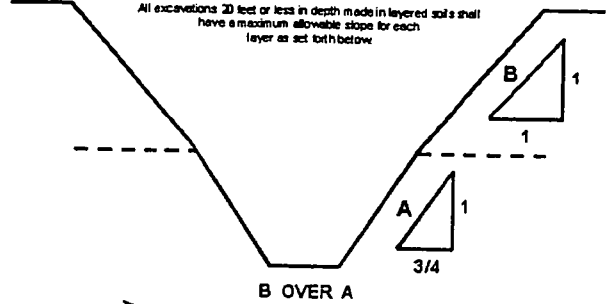


Figure N-13

EXCAVATIONS MADE IN LAYERED SOILS

All excavations 20 feet or less in depth made in layered soils shall have a maximum allowable slope for each layer as set forth below.



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Figure N-14

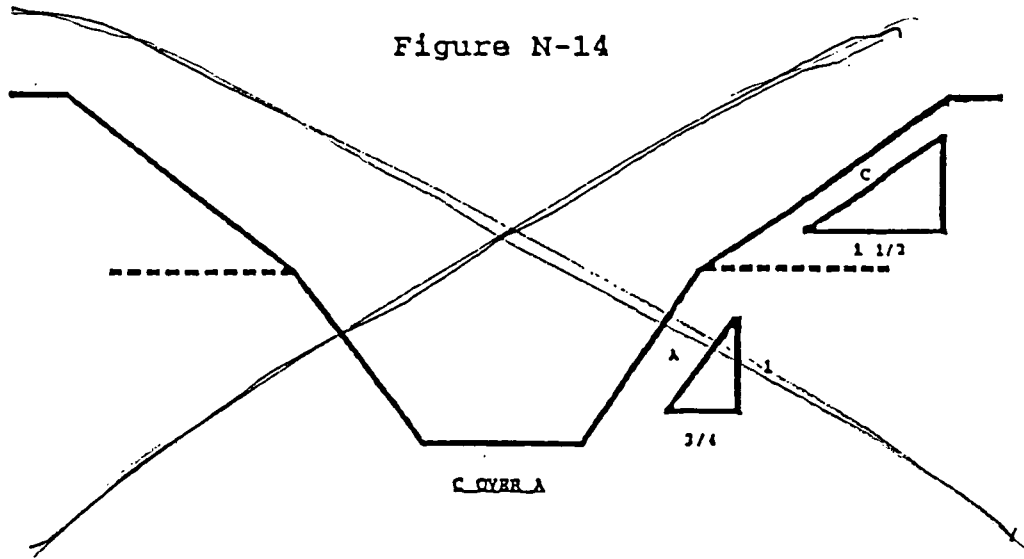


Figure N-14

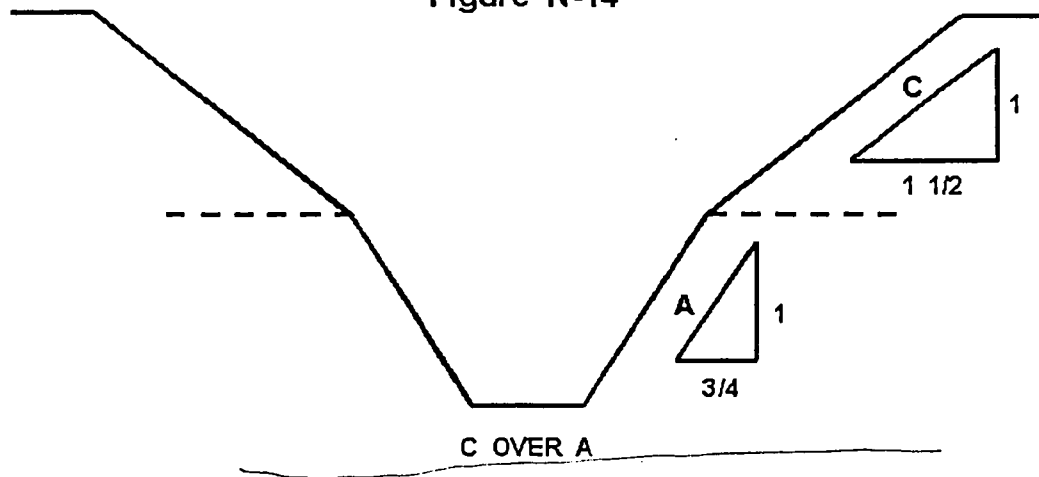
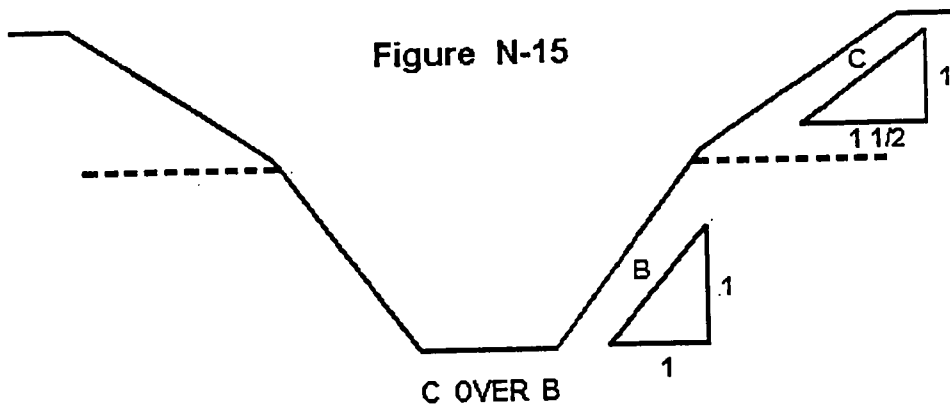


Figure N-15



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Figure N-16

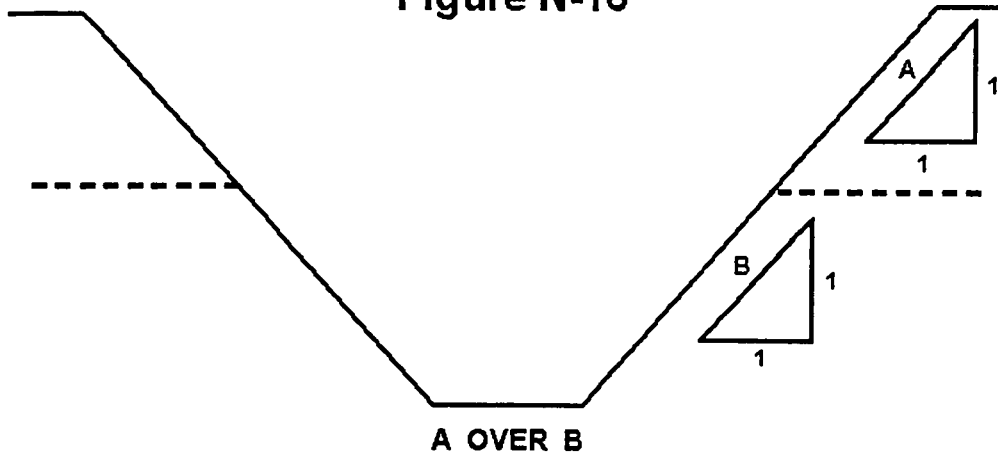


Figure N-17

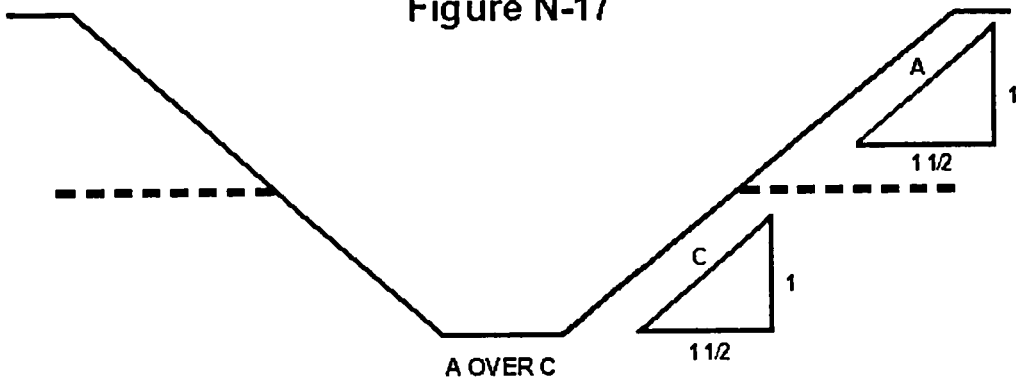
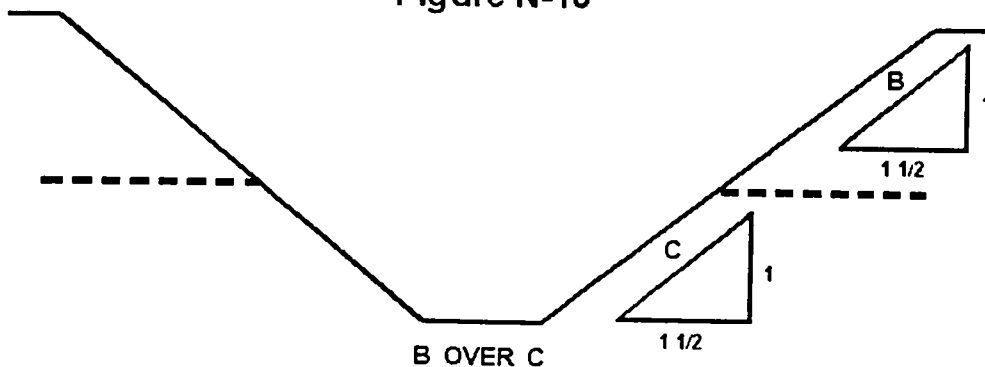


Figure N-18



AMENDATORY SECTION (Amending Order 91-01, filed 5/20/91, effective 6/20/91)

**WAC 296-24-12002 Definitions.** The following definitions are applicable to all sections of this chapter which include WAC 296-24-120 in the section number.

(1) (~~"Lavatory" means a basin or similar vessel used exclusively for washing of the hands, arms, face and head.~~

(2)) "Nonwater carriage toilet facility" means a toilet facility not connected to a sewer.

((3)) (2) "Number of employees" means, unless otherwise specified, the maximum number of employees present at any one time on a regular shift.

((4)) (3) "Personal service room" means a room used for activities not directly connected with the production or service function performed by the establishment. Such activ-

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ities include but are not limited to, first aid, medical services, dressing, showering, toilet use, washing, and eating.

~~((5))~~ (4) "Potable water" means water which meets the quality standards for drinking purposes of state or local authority having jurisdiction or water that meets the quality standards prescribed by the United States Environmental Protection Agency's National Interim Primary Drinking Water Regulations, published in 40 CFR Part 141, and 40 CFR 147.2400.

~~((6))~~ (5) "Toilet facility" means a fixture maintained within a toilet room for the purpose of defecation or urination, or both.

~~((7))~~ (6) "Toilet room" means a room maintained within or on the premises of any place of employment, containing toilet facilities for use by employees.

~~((8))~~ (7) "Toxic material" means a material in concentration or amount which exceeds the applicable limit established by a standard, such as chapter 296-62 WAC or, in the absence of an applicable standard, which is of such toxicity so as to constitute a recognized hazard that is causing or is likely to cause death or serious physical harm.

~~((9))~~ (8) "Urinal" means a toilet facility maintained within a toilet room for the sole purpose of urination.

~~((10))~~ (9) "Water closet" means a toilet facility maintained within a toilet room for the purpose of both defecation and urination and which is flushed with water.

~~((11))~~ (10) "Wet process" means any process or operation in a workroom which normally results in surfaces upon which employees may walk or stand becoming wet.

**AMENDATORY SECTION** (Amending Order 91-07, filed 11/22/91, effective 12/24/91)

**WAC 296-24-47505 Basic rules.** (1) Odorizing gases.

(a) All liquefied petroleum gases shall be effectively odorized by an approved agent of such character as to indicate positively, by distinct odor, the presence of gas down to concentration in air of not over one-fifth the lower limit of flammability. Odorization, however, is not required if harmful in the use of further processing of the liquefied petroleum gas, or if odorization will serve no useful purpose as a warning agent in such use or further processing.

(b) The odorization requirement of (a) of this subsection shall be considered to be met by the use of 1.0 pounds of ethyl mercaptan, 1.0 pounds of thiophane or 1.4 pounds of amyl mercaptan per ten thousand gallons of LP-gas. However, this listing of odorants and quantities shall not exclude the use of other odorants that meet the odorization requirements of (a) of this subsection.

(2) Approval of equipment and systems.

(a) Each system utilizing DOT containers in accordance with 49 CFR Part 178 shall have its container valves, connectors, manifold valve assemblies, and regulators approved.

(b) Each system for domestic or commercial use utilizing containers of two thousand gallons or less water capacity, other than those constructed in accordance with 49 CFR Part 178, shall consist of a container assembly and one or more regulators, and may include other parts. The system as a unit or the container assembly as a unit, and the regulator or regulators, shall be individually listed.

(c) In systems utilizing containers of over two thousand gallons water capacity, each regulator, container, valve, excess flow valve, gaging device, and relief valve installed on or at the container, shall have its correctness as to design, construction, and performance determined by listing by a nationally recognized testing laboratory. Refer to federal regulation 29 CFR 1910.7 for definition of nationally recognized testing laboratory.

(d) The provisions of subsection (3)(a) of this section shall not be construed as prohibiting the continued use or reinstallation of containers constructed and maintained in accordance with the standard for the Storage and Handling of Liquefied Petroleum Gases NFPA No. 58 in effect at the time of fabrication.

(e) Containers used with systems embodied in this section and WAC 296-24-47509 (3)(c) and 296-24-47513, shall be constructed, tested, and stamped in accordance with DOT specifications effective at the date of their manufacture.

(3) Requirements for construction and original test of containers.

(a) Containers used with systems embodied in WAC 296-24-47509, 296-24-47513 through 296-24-47517, except as provided in WAC 296-24-47511 (3)(c) (~~and 296-24-47515 (2)(a)~~), shall be designed, constructed, and tested in accordance with the Rules for Construction of Unfired Pressure Vessels, section VIII, Division 1, American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, 1968 edition.

(b) Containers constructed according to the 1949 and earlier editions of the ASME Code do not have to comply with U-2 through U-10 and U-19 thereof. Containers constructed according to U-70 in the 1949 and earlier editions do not meet the requirements of this section.

(c) Containers designed, constructed, and tested prior to July 1, 1961, according to the Code for Unfired Pressure Vessels for Petroleum Liquids and Gases, 1951 edition with 1954 Addenda, of the American Petroleum Institute and the American Society of Mechanical Engineers shall be considered in conformance. Containers constructed according to API-ASME Code do not have to comply with section I or with appendix to section I. W-601 to W-606 inclusive in the 1943 and earlier editions do not apply.

(4) Welding of containers.

(a) Welding to the shell, head, or any other part of the container subject to internal pressure, shall be done in compliance with the code under which the tank was fabricated. Other welding is permitted only on saddle plates, lugs, or brackets attached to the container by the tank manufacturer.

(b) Where repair or modification involving welding of DOT containers is required, the container shall be returned to a qualified manufacturer making containers of the same type, and the repair or modification made in compliance with DOT regulations.

(5) Markings on container.

(a) Each container covered in subsection (3)(a) of this section except as provided in subsection (2)(d) of this section shall be marked as specified in the following:

(i) With a marking identifying compliance with, and other markings required by, the rules of the reference under which the container is constructed; or with the stamp and

other markings required by the laws, rules or regulations as administered by the state of Washington, department of labor and industries pertaining to such containers.

(ii) With notation as to whether the container is designed for underground or aboveground installation or both. If intended for both and different style hoods are provided, the marking shall indicate the proper hood for each type of installation.

(iii) With the name and address of the supplier of the container, or with the trade name of the container.

(iv) With the water capacity of the container in pounds or gallons, United States standard.

(v) With the pressure in p.s.i.g., for which the container is designed.

(vi) With the wording "This container shall not contain a product having a vapor pressure in excess of—p.s.i.g. at 100°F," see WAC 296-24-47509, Table H-31.

(vii) With the tare weight in pounds or other identified unit of weight for containers with a water capacity of three hundred pounds or less.

(viii) With marking indicating the maximum level to which the container may be filled with liquid at temperatures between 20°F and 130°F, except on containers provided with fixed maximum level indicators or which are filled by weighing. Markings shall be increments of not more than 20°F. This marking may be located on the liquid level gaging device.

(ix) With the outside surface area in square feet.

(b) Markings specified shall be on a metal nameplate attached to the container and located in such a manner as to remain visible after the container is installed.

(c) When LP-gas and one or more other gases are stored or used in the same area, the containers shall be marked to identify their content. Marking shall be in compliance with American National Standard Z48.1-1954, "Method of Marking Portable Compressed Gas Containers to Identify the Material Contained."

(6) Location of containers and regulating equipment.

(a) Containers, and first stage regulating equipment if used, shall be located outside of buildings, except under one or more of the following:

(i) In buildings used exclusively for container charging, vaporization pressure reduction, gas mixing, gas manufacturing, or distribution.

(ii) When portable use is necessary and in accordance with WAC 296-24-47507(5).

(iii) LP-gas fueled stationary or portable engines in accordance with WAC 296-24-47511 (11) or (12).

(iv) LP-gas fueled industrial trucks used in accordance with WAC 296-24-47511(13).

(v) LP-gas fueled vehicles garaged in accordance with WAC 296-24-47511(14).

(vi) Containers awaiting use or resale when stored in accordance with WAC 296-24-47513.

(b) Each individual container shall be located with respect to the nearest important building or group of buildings or line of adjoining property which may be built on in accordance with Table H-23.

TABLE H-23

Water capacity per container	Minimum distances		
	Containers		Between above-ground containers
	Under-ground	Above-ground	
Less than 125 gals <sup>1</sup>	10 feet	None	None
125 to 250 gallons	10 feet	10 feet	None.
251 to 500 gallons	10 feet	10 feet	3 feet.
501 to 2,000 gallons	25 feet <sup>2</sup>	25 feet <sup>2</sup>	3 feet.
2,001 to 30,000 gallons	50 feet	50 feet	5 feet.
30,001 to 70,000 gallons	50 feet	75 feet	1/4 of sum diameters of adjacent containers.
70,001 to 90,000 gallons	50 feet	100 feet	

<sup>1</sup>If the aggregate water capacity of a multicontainer installation at a consumer site is five hundred one gallons or greater, the minimum distance shall comply with the appropriate portion of this table, applying the aggregate capacity rather than the capacity per container. If more than one installation is made, each installation shall be separated from another installation by at least twenty-five feet. Do not apply the MINIMUM DISTANCES BETWEEN ABOVE-GROUND CONTAINERS to such installations.

<sup>2</sup>Note: The above distance requirements may be reduced to not less than ten feet for a single container of one thousand two hundred gallons water capacity or less, providing such a container is at least twenty-five feet from any other LP-gas container of more than one hundred twenty-five gallons water capacity.

(c) Containers installed for use shall not be stacked one above the other.

(d) In industrial installations involving containers of one hundred eighty thousand gallons aggregate water capacity or more, where serious mutual exposures between the container and adjacent properties prevail, firewalls or other means of special protection designed and constructed in accordance with good engineering practices are required.

(e) In the case of buildings devoted exclusively to gas manufacturing and distributing operations, the distances required by Table H-23 may be reduced provided that in no case shall containers of water capacity exceeding five hundred gallons be located closer than ten feet to such gas manufacturing and distributing buildings.

(f) Readily ignitable material such as weeds and long dry grass shall be removed within ten feet of any container.

PERMANENT

(g) The minimum separation between liquefied petroleum gas containers and flammable liquid tanks shall be twenty feet, and the minimum separation between a container and the centerline of the dike shall be ten feet. The foregoing provision shall not apply when LP-gas containers of one hundred twenty-five gallons or less capacity are installed adjacent to Class III flammable liquid tanks of two hundred seventy-five gallons or less capacity.

(h) Suitable means shall be taken to prevent the accumulation of flammable liquids under adjacent liquefied petroleum gas containers, such as by diking, diversion curbs, or grading.

(i) When dikes are used with flammable liquid tanks, no liquefied petroleum gas containers shall be located within the diked area.

(7) Container valves and container accessories.

(a) Valves, fittings, and accessories connected directly to the container including primary shutoff valves, shall have a rated working pressure of at least 250 p.s.i.g. and shall be of material and design suitable for LP-gas service. Cast iron shall not be used for container valves, fittings, and accessories. This does not prohibit the use of container valves made of malleable or nodular iron.

(b) Connections to containers, except safety relief connections, liquid level gaging devices, and plugged openings, shall have shutoff valves located as close to the container as practicable.

(c) Excess flow valves, where required shall close automatically at the rated flows of vapor or liquid as specified by the manufacturer. The connections or line including valves, fittings, etc., being protected by an excess flow valve shall have a greater capacity than the rated flow of the excess flow valve.

(d) Liquid level gaging devices which are so constructed that outward flow of container contents shall not exceed that passed by a No. 54 drill size opening, need not be equipped with excess flow valves.

(e) Openings from container or through fittings attached directly on container to which pressure gage connection is made, need not be equipped with shutoff or excess flow valves if such openings are restricted to not larger than No. 54 drill size opening.

(f) Except as provided in WAC 296-24-47507 (5)(a)(ii), excess flow and back pressure check valves where required by this section shall be located inside of the container or at a point outside where the line enters the container; in the latter case, installation shall be made in such manner that any undue strain beyond the excess flow or back pressure check valve will not cause breakage between the container and such valve.

(g) Excess flow valves shall be designed with a bypass, not to exceed a No. 60 drill size opening to allow equalization of pressures.

(h) Containers of more than thirty gallons water capacity and less than two thousand gallons water capacity, filled on a volumetric basis, and manufactured after December 1, 1963, shall be equipped for filling into the vapor space.

(8) Piping—Including pipe, tubing, and fittings.

(a) Pipe, except as provided in WAC 296-24-47511 (b)(a) ((and 296-24-47515 (10)(e))) shall be wrought iron or

steel (black or galvanized), brass, copper, or aluminum alloy. Aluminum alloy pipe shall be at least Schedule 40 in accordance with the specifications for Aluminum Alloy Pipe, American National Standards Institute (ANSI) H38.7-1969 (ASTM, B241-1969), except that the use of alloy 5456 is prohibited and shall be suitably marked at each end of each length indicating compliance with American National Standard Institute specifications. Aluminum alloy pipe shall be protected against external corrosion when it is in contact with dissimilar metals other than galvanized steel, or its location is subject to repeated wetting by such liquids as water (except rain water), detergents, sewage, or leaking from other piping, or it passes through flooring, plaster, masonry, or insulation. Galvanized sheet steel or pipe, galvanized inside and out, may be considered suitable protection. The maximum nominal pipe size for aluminum pipe shall be three-fourths inch and shall not be used for pressures exceeding 20 p.s.i.g. Aluminum alloy pipe shall not be installed within six inches of the ground.

(i) Vapor piping with operating pressures not exceeding 125 p.s.i.g. shall be suitable for a working pressure of at least 125 p.s.i.g. Pipe shall be at least Schedule 40 ASTM A-53-69, Grade B Electric Resistance Welded and Electric Flash Welded Pipe or equal.

(ii) Vapor piping with operating pressures over 125 p.s.i.g. and all liquid piping shall be suitable for a working pressure of at least 250 p.s.i.g. Pipe shall be at least Schedule 80 if joints are threaded or threaded and back welded. At least Schedule 40 (ASTM A-53-1969 Grade B Electric Resistance Welded and Electric Flash Welded Pipe or equal) shall be used if joints are welded, or welded and flanged.

(b) Tubing shall be seamless and of copper, brass, steel, or aluminum alloy. Copper tubing shall be of Type K or L or equivalent as covered in the Specification for Seamless Copper Water Tube, ANSI H23.1-1970 (ASTM B88-1969). Aluminum alloy tubing shall be of Type A or B or equivalent as covered in Specification ASTM B210-1968 and shall be suitably marked every eighteen inches indicating compliance with ASTM specifications. The minimum nominal wall thickness of copper tubing and aluminum alloy tubing shall be as specified in Table H-24 and Table H-25.

**TABLE H-24**  
WALL THICKNESS OF COPPER TUBING<sup>1</sup>

Note: The standard size by which tube is designated is one-eighth-inch smaller than its nominal outside diameter.

Standard size (inches)	Nominal O.D. (inches)	Nominal wall thickness (inches)	
		Type K	Type L
1/4	0.375	0.035	0.030
3/8	0.500	0.049	0.035
1/2	0.625	0.049	0.040
5/8	0.750	0.049	0.042
3/4	0.875	0.065	0.045
1	1.125	0.065	0.050
1 1/4	1.375	0.065	0.055
1 1/2	1.625	0.072	0.060

PERMANENT

Standard size (inches)	Nominal O.D. (inches)	Nominal wall thickness (inches)	
		Type K	Type L
2	2.125	0.083	0.070

<sup>1</sup>Based on data in Specification for Seamless Copper Water Tubing, ANSI H23.1-1970 (ASTM B-88-69).

**TABLE H-25**  
WALL THICKNESS OF ALUMINUM ALLOY TUBING<sup>1</sup>

Outside diameter (inches)	Nominal wall thickness (inches)	
	Type A	Type B
3/8	0.035	0.049
1/2	0.035	0.049
5/8	0.042	0.049
3/4	0.049	0.058

<sup>1</sup>Based on data in Standard Specification for Aluminum-Alloy Drawn Seamless Coiled Tubes for Special Purpose Applications, ASTM B210-68.

Aluminum alloy tubing shall be protected against external corrosion when it is in contact with dissimilar metals other than galvanized steel, or its location is subject to repeated wetting by liquids such as water (except rainwater), detergents, sewage, or leakage from other piping, or it passes through flooring, plaster, masonry, or insulation. Galvanized sheet steel or pipe, galvanized inside and out, may be considered suitable protection. The maximum outside diameter for aluminum alloy tubing shall be three-fourths inch and shall not be used for pressures exceeding 20 p.s.i.g. Aluminum alloy tubing shall not be installed within six inches of the ground.

(c) In systems where the gas in liquid form without pressure reduction enters the building, only heavy walled seamless brass or copper tubing with an internal diameter not greater than three thirty-seconds inch, and a wall thickness of not less than three sixty-fourths inch shall be used. This requirement shall not apply to research and experimental laboratories, buildings, or separate fire divisions of buildings used exclusively for housing internal combustion engines, and to commercial gas plants or bulk stations where containers are charged, nor to industrial vaporizer buildings, nor to buildings, structures, or equipment under construction or undergoing major renovation.

(d) Pipe joints may be screwed, flanged, welded, soldered, or brazed with a material having a melting point exceeding 1,000°F. Joints on seamless copper, brass, steel, or aluminum alloy gas tubing shall be made by means of approved gas tubing fittings, or soldered or brazed with a material having a melting point exceeding 1,000°F.

(e) For operating pressures of 125 p.s.i.g. or less, fittings shall be designed for a pressure of at least 125 p.s.i.g. For

operating pressures above 125 p.s.i.g., fittings shall be designed for a minimum of 250 p.s.i.g.

(f) The use of threaded cast iron pipe fittings such as ells, tees, crosses, couplings, and unions is prohibited. Aluminum alloy fittings shall be used with aluminum alloy pipe and tubing. Insulated fittings shall be used where aluminum alloy pipe or tubing connects with a dissimilar metal.

(g) Strainers, regulators, meters, compressors, pumps, etc., are not to be considered as pipe fittings. This does not prohibit the use of malleable, nodular, or higher strength gray iron for such equipment.

(h) All materials such as valve seats, packing, gaskets, diaphragms, etc., shall be of such quality as to be resistant to the action of liquefied petroleum gas under the service conditions to which they are subjected.

(i) All piping, tubing, or hose shall be tested after assembly and proved free from leaks at not less than normal operating pressures. After installation, piping and tubing of all domestic and commercial systems shall be tested and proved free of leaks using a manometer or equivalent device that will indicate a drop in pressure. Test shall not be made with a flame.

(j) Provision shall be made to compensate for expansion, contraction, jarring, and vibration, and for settling. This may be accomplished by flexible connections.

(k) Piping outside buildings may be buried, above ground, or both, but shall be well supported and protected against physical damage. Where soil conditions warrant, all piping shall be protected against corrosion. Where condensation may occur, the piping shall be pitched back to the container, or suitable means shall be provided for revaporization of the condensate.

(9) Hose specifications.

(a) Hose shall be fabricated of materials that are resistant to the action of LP-gas in the liquid and vapor phases. If wire braid is used for reinforcing the hose, it shall be of corrosion-resistant material such as stainless steel.

(b) Hose subject to container pressure shall be marked "LP-gas" or "LPG" at not greater than ten-foot intervals.

(c) Hose subject to container pressure shall be designed for a bursting pressure of not less than 1,250 p.s.i.g.

(d) Hose subject to container pressure shall have its correctness as to design construction and performance determined by being listed (see WAC 296-24-47501(15)).

(e) Hose connections subject to container pressure shall be capable of withstanding, without leakage, a test pressure of not less than 500 p.s.i.g.

(f) Hose and hose connections on the low-pressure side of the regulator or reducing valve shall be designed for a bursting pressure of not less than 125 p.s.i.g. or five times the set pressure of the relief devices protecting that portion of the system, whichever is higher.

(g) Hose may be used on the low-pressure side of regulators to connect to other than domestic and commercial gas appliances under the following conditions:

(i) The appliances connected with hose shall be portable and need a flexible connection.

(ii) For use inside buildings the hose shall be of minimum practical length, but shall not exceed six feet except as provided in WAC 296-24-47507 (5)(a)(vii) and shall not

PERMANENT

extend from one room to another, nor pass through any walls, partitions, ceilings, or floors. Such hose shall not be concealed from view or used in a concealed location. For use outside of buildings, the hose may exceed this length but shall be kept as short as practical.

(iii) The hose shall be approved and shall not be used where it is likely to be subjected to temperatures above 125°F. The hose shall be securely connected to the appliance and the use of rubber slip ends shall not be permitted.

(iv) The shutoff valve for an appliance connected by hose shall be in the metal pipe or tubing and not at the appliance end of the hose. When shutoff valves are installed close to each other, precautions shall be taken to prevent operation of the wrong valve.

(v) Hose used for connecting to wall outlets shall be protected from physical damage.

(10) Safety devices.

(a) Every container except those constructed in accordance with DOT specifications and every vaporizer (except motor fuel vaporizers and except vaporizers described in subsection (11)(b)(iii) of this section and WAC 296-24-47509 (4)(e)(i)) whether heated by artificial means or not, shall be provided with one or more safety relief valves of spring-loaded or equivalent type. These valves shall be arranged to afford free vent to the outer air with discharge not less than five feet horizontally away from any opening into the building which is below such discharge. The rate of discharge shall be in accordance with the requirements of (b) or (d) of this subsection in the case of vaporizers.

(b) Minimum required rate of discharge in cubic feet per minute of air at one hundred twenty percent of the maximum permitted start to discharge pressure for safety relief valves to be used on containers other than those constructed in accordance with DOT specification shall be as follows:

Surface area (sq. ft.)	Flow rate CFM air
20 or less	626
25	751
30	872
35	990
40	1,100
45	1,220
50	1,330
55	1,430
60	1,540
65	1,640
70	1,750
75	1,850
80	1,950
85	2,050
90	2,150
95	2,240
100	2,340
105	2,440
110	2,530
115	2,630
120	2,720

Surface area (sq. ft.)	Flow rate CFM air
125	2,810
130	2,900
135	2,990
140	3,080
145	3,170
150	3,260
155	3,350
160	3,440
165	3,530
170	3,620
175	3,700
180	3,790
185	3,880
190	3,960
195	4,050
200	4,130
210	4,300
220	4,470
230	4,630
240	4,800
250	4,960
260	5,130
270	5,290
280	5,450
290	5,610
300	5,760
310	5,920
320	6,080
330	6,230
340	6,390
350	6,540
360	6,690
370	6,840
380	7,000
390	7,150
400	7,300
450	8,040
500	8,760
550	9,470
600	10,170
650	10,860
700	11,550
750	12,220
800	12,880
850	13,540
900	14,190
950	14,830
1,000	15,470
1,050	16,100
1,100	16,720
1,150	17,350
1,200	17,960
1,250	18,570
1,300	19,180

PERMANENT

Surface area (sq. ft.)	Flow rate CFM air
1,350	19,780
1,400	20,380
1,450	20,980
1,500	21,570
1,550	22,160
1,600	22,740
1,650	23,320
1,700	23,900
1,750	24,470
1,800	25,050
1,850	25,620
1,900	26,180
1,950	26,750
2,000	27,310

Surface area= total outside surface area of container in square feet.

(c) When the surface area is not stamped on the nameplate or when the marking is not legible, the area can be calculated by using one of the following formulas:

(i) Cylindrical container with hemispherical heads:

$$\text{Area} = \text{Overall length} \times \text{outside diameter} \times 3.1416.$$

(ii) Cylindrical container with other than hemispherical heads:

$$\text{Area} = (\text{Overall length} + 0.3 \text{ outside diameter}) \times \text{outside diameter} \times 3.1416.$$

Note: This formula is not exact, but will give results within the limits of practical accuracy for the sole purpose of sizing relief valves.

(iii) Spherical container:

$$\text{Area} = \text{Outside diameter squared} \times 3.1416.$$

Flow rate-CFM air= Required flow capacity in cubic feet per minute of air at standard conditions, 60°F and atmospheric pressure (14.7 p.s.i.a.).

The rate of discharge may be interpolated for intermediate values of surface area. For containers with total outside surface area greater than two thousand square feet, the required flow rate can be calculated using the formula, flow rate-CFM air = 53.632 A<sup>0.82</sup>.

A= Total outside surface area of the container in square feet.

Valves not marked "air" have flow rate marking in cubic feet per minute of liquefied petroleum gas. These can be converted to ratings in cubic feet per minute of air by multiplying the liquefied petroleum gas ratings by factors listed below. Air flow ratings can be converted to ratings in cubic feet per minute of liquefied petroleum gas by dividing the air ratings by the factors listed below.

AIR CONVERSION FACTORS

Container type	100	125	150	175	200
Air conversion factor	1.162	1.142	1.113	1.078	1.010

(d) Minimum required rate of discharge for safety relief valves for liquefied petroleum gas vaporizers (steam heated, water heated, and direct fired).

The minimum required rate of discharge for safety relief valves shall be determined as follows:

(i) Obtain the total surface area by adding the surface area of vaporizer shell in square feet directly in contact with LP-gas and the heat exchanged surface area in square feet directly in contact with LP-gas.

(ii) Obtain the minimum required rate of discharge in cubic feet of air per minute, at 60°F and 14.7 p.s.i.a. from (b) of this subsection, for this total surface area.

(e) Container and vaporizer safety relief valves shall be set to start-to-discharge, with relation to the design pressure of the container, in accordance with Table H-26.

TABLE H-26

Containers	Minimum (percent)	Maximum (percent)
ASME Code; Par. U-68, U-69—1949 and earlier editions	110	125
ASME Code; Par. U-200, U-201—1949 edition	88	100
ASME Code—1950, 1952, 1956, 1959, 1962, 1965 and 1968 (Division I) editions	88	100
API—ASME Code—all editions	88	100
DOT—As prescribed in 49 CFR Chapter I		

<sup>1</sup>Manufacturers of safety relief valves are allowed a plus tolerance not exceeding ten percent of the set pressure marked on the valve.

(f) Safety relief devices used with systems employing containers other than those constructed according to DOT specifications shall be so constructed as to discharge at not less than the rates shown in (b) of this subsection, before the pressure is in excess of one hundred twenty percent of the maximum (not including the ten percent referred to in (e) of this subsection) permitted start to discharge pressure setting of the device.

(g) In certain locations sufficiently sustained high temperatures prevail which require the use of a lower vapor pressure product to be stored or the use of a higher designed pressure vessel in order to prevent the safety valves opening as

PERMANENT



the result of these temperatures. As an alternative the tanks may be protected by cooling devices such as by spraying, by shading, or other effective means.

(h) Safety relief valves shall be arranged so that the possibility of tampering will be minimized. If pressure setting or adjustment is external, the relief valves shall be provided with approved means for sealing adjustment.

(i) Shutoff valves shall not be installed between the safety relief devices and the container, or the equipment or piping to which the safety relief device is connected except that a shutoff valve may be used where the arrangement of this valve is such that full required capacity flow through the safety relief device is always afforded.

(j) Safety relief valves shall have direct communication with the vapor space of the container at all times.

(k) Each container safety relief valve used with systems covered by WAC 296-24-47509, 296-24-47511, (~~296-24-47515~~) and 296-24-47517, except as provided in WAC 296-24-47511 (3)(c) shall be plainly and permanently marked with the following: "Container type" of the pressure vessel on which the valve is designed to be installed; the pressure in p.s.i.g. at which the valve is set to discharge; the actual rate of discharge of the valve in cubic feet per minute of air at 60°F and 14.7 p.s.i.a.; and the manufacturer's name and catalog number, for example: T200-250-4050 AIR—indicating that the valve is suitable for use on a Type 200 container, that it is set to start to discharge at 250 p.s.i.g.; and that its rate of discharge is four thousand fifty cubic feet per minute of air as determined in (b) of this subsection.

(l) Safety relief valve assemblies, including their connections, shall be of sufficient size so as to provide the rate of flow required for the container on which they are installed.

(m) A hydrostatic relief valve shall be installed between each pair of shutoff valves on liquefied petroleum gas liquid piping so as to relieve into a safe atmosphere. The start-to-discharge pressure setting of such relief valves shall not be in excess of 500 p.s.i.g. The minimum setting on relief valves installed in piping connected to other than DOT containers shall not be lower than one hundred forty percent of the container relief valve setting and in piping connected to DOT containers not lower than 400 p.s.i.g. Such a relief valve should not be installed in the pump discharge piping if the same protection can be provided by installing the relief valve in the suction piping. The start-to-discharge pressure setting of such a relief valve, if installed on the discharge side of a pump, shall be greater than the maximum pressure permitted by the recirculation device in the system.

(n) The discharge from any safety relief device shall not terminate in or beneath any building, except relief devices covered by subsection (6)(a)(i) through (vi) of this section, or WAC 296-24-47507 (4)(a) or (5).

(o) Container safety relief devices and regulator relief vents shall be located not less than five feet in any direction from air openings into sealed combustion system appliances or mechanical ventilation air intakes.

#### (11) Vaporizer and housing.

(a) Indirect fired vaporizers utilizing steam, water, or other heating medium shall be constructed and installed as follows:

(i) Vaporizers shall be constructed in accordance with the requirements of subsection (3)(a) through (c) of this section and shall be permanently marked as follows:

(A) With the code marking signifying the specifications to which the vaporizer is constructed.

(B) With the allowable working pressure and temperature for which the vaporizer is designed.

(C) With the sum of the outside surface area and the inside heat exchange surface area expressed in square feet.

(D) With the name or symbol of the manufacturer.

(ii) Vaporizers having an inside diameter of six inches or less exempted by the ASME Unfired Pressure Vessel Code, Section VIII of the ASME Boiler and Pressure Vessel Code—1968 shall have a design pressure not less than 250 p.s.i.g. and need not be permanently marked.

(iii) Heating or cooling coils shall not be installed inside a storage container.

(iv) Vaporizers may be installed in buildings, rooms, sheds, or lean-tos used exclusively for gas manufacturing or distribution, or in other structures of light, noncombustible construction or equivalent, well ventilated near the floor line and roof.

When vaporizing and/or mixing equipment is located in a structure or building not used exclusively for gas manufacturing or distribution, either attached to or within such a building, such structure or room shall be separated from the remainder of the building by a wall designed to withstand a static pressure of at least one hundred pounds per square foot. This wall shall have no openings or pipe or conduit passing through it. Such structure or room shall be provided with adequate ventilation and shall have a roof or at least one exterior wall of lightweight construction.

(v) Vaporizers shall have, at or near the discharge, a safety relief valve providing an effective rate of discharge in accordance with subsection (10)(d) of this section, except as provided in WAC 296-24-47509 (4)(e)(i).

(vi) The heating medium lines into and leaving the vaporizer shall be provided with suitable means for preventing the flow of gas into the heat systems in the event of tube rupture in the vaporizer. Vaporizers shall be provided with suitable automatic means to prevent liquid passing through the vaporizers to the gas discharge piping.

(vii) The device that supplies the necessary heat for producing steam, hot water, or other heating medium may be installed in a building, compartment, room, or lean-to which shall be ventilated near the floorline and roof to the outside. The device location shall be separated from all compartments or rooms containing liquefied petroleum gas vaporizers, pumps, and central gas mixing devices by a wall designed to withstand a static pressure of at least one hundred pounds per square foot. This wall shall have no openings or pipes or conduit passing through it. This requirement does not apply to the domestic water heaters which may supply heat for a vaporizer in a domestic system.

(viii) Gas-fired heating systems supplying heat exclusively for vaporization purposes shall be equipped with automatic safety devices to shut off the flow of gas to main burners, if the pilot light should fail.

(ix) Vaporizers may be an integral part of a fuel storage container directly connected to the liquid section or gas section or both.

(x) Vaporizers shall not be equipped with fusible plugs.

(xi) Vaporizer houses shall not have unprotected drains to sewers or sump pits.

(b) Atmospheric vaporizers employing heat from the ground or surrounding air shall be installed as follows:

(i) Buried underground, or

(ii) Located inside the building close to a point at which pipe enters the building provided the capacity of the unit does not exceed one quart.

(iii) Vaporizers of less than one quart capacity heated by the ground or surrounding air, need not be equipped with safety relief valves provided that adequate tests demonstrate that the assembly is safe without safety relief valves.

(c) Direct gas-fired vaporizers shall be constructed, marked, and installed as follows:

(i) In accordance with the requirements of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code—1968 that are applicable to the maximum working conditions for which the vaporizer is designed.

(ii) With the name of the manufacturer; rated BTU input to the burner; the area of the heat exchange surface in square feet; the outside surface of the vaporizer in square feet; and the maximum vaporizing capacity in gallons per hour.

(iii) Vaporizers may be connected to the liquid section or the gas section of the storage container, or both; but in any case there shall be at the container a manually operated valve in each connection to permit completely shutting off when desired, of all flow of gas or liquid from container to vaporizer.

(iv) Vaporizers with capacity not exceeding thirty-five gallons per hour shall be located at least five feet from container shutoff valves. Vaporizers having capacity of more than thirty-five gallons but not exceeding one hundred gallons per hour shall be located at least ten feet from the container shutoff valves. Vaporizers having a capacity greater than one hundred gallons per hour shall be located at least fifteen feet from container shutoff valves.

(v) Vaporizers may be installed in buildings, rooms, housings, sheds, or lean-tos used exclusively for vaporizing or mixing of liquefied petroleum gas. Vaporizing housing structures shall be of noncombustible construction, well ventilated near the floorline and the highest point of the roof. When vaporizer and/or mixing equipment is located in a structure or room attached to or within a building, such structure or room shall be separated from the remainder of the building by a wall designed to withstand a static pressure of at least one hundred pounds per square foot. This wall shall have no openings or pipes or conduit passing through it. Such structure or room shall be provided with adequate ventilation, and shall have a roof or at least one exterior wall of light-weight construction.

(vi) Vaporizers shall have at or near the discharge, a safety relief valve providing an effective rate of discharge in accordance with subsection (10)(d) of this section. The relief valve shall be so located as not to be subjected to temperatures in excess of 140°F.

(vii) Vaporizers shall be provided with suitable automatic means to prevent liquid passing from the vaporizer to the gas discharge piping of the vaporizer.

(viii) Vaporizers shall be provided with means for manually turning off the gas to the main burner and pilot.

(ix) Vaporizers shall be equipped with automatic safety devices to shut off the flow of gas to main burners if the pilot light should fail. When the flow through the pilot exceeds 2,000 B.T.U. per hour, the pilot also shall be equipped with an automatic safety device to shut off the flow of gas to the pilot should the pilot flame be extinguished.

(x) Pressure regulating and pressure reducing equipment if located within ten feet of a direct fired vaporizer shall be separated from the open flame by a substantially airtight non-combustible partition or partitions.

(xi) Except as provided in (c)(v) of this subsection, the following minimum distances shall be maintained between direct fired vaporizers and the nearest important building or group of buildings or line of adjoining property which may be built upon:

(A) Ten feet for vaporizers having a capacity of fifteen gallons per hour or less vaporizing capacity.

(B) Twenty-five feet for vaporizers having a vaporizing capacity of sixteen to one hundred gallons per hour.

(C) Fifty feet for vaporizers having a vaporizing capacity exceeding one hundred gallons per hour.

(xii) Direct fired vaporizers shall not raise the product pressure above the design pressure of the vaporizer equipment nor shall they raise the product pressure within the storage container above the pressure shown in the second column of Table H-31. (See WAC 296-24-47509.)

(xiii) Vaporizers shall not be provided with fusible plugs.

(xiv) Vaporizers shall not have unprotected drains to sewers or sump pits.

(d) Direct gas-fired tank heaters, shall be constructed and installed as follows:

(i) Direct gas-fired tank heaters, and tanks to which they are applied, shall only be installed above ground.

(ii) Tank heaters shall be permanently marked with the name of the manufacturer, the rated B.T.U. input to the burner, and the maximum vaporizing capacity in gallons per hour.

Note: Tank heaters may be an integral part of a fuel storage container directly connected to the container liquid section, or vapor section, or both.

(iii) Tank heaters shall be provided with a means for manually turning off the gas to the main burner and pilot.

(iv) Tank heaters shall be equipped with an automatic safety device to shut off the flow of gas to main burners, if the pilot light should fail. When flow through pilot exceeds 2,000 B.T.U. per hour, the pilot also shall be equipped with an automatic safety device to shut off the flow of gas to the pilot should the pilot flame be extinguished.

(v) Pressure regulating and pressure reducing equipment if located within ten feet of a direct fired tank heater shall be separated from the open flame by a substantially airtight non-combustible partition.

(vi) The following minimum distances shall be maintained between a storage tank heated by a direct fired tank heater and the nearest important building or group of buildings or line of adjoining property which may be built upon:

- (A) Ten feet for storage containers of less than five hundred gallons water capacity.
- (B) Twenty-five feet for storage containers of five hundred to one thousand two hundred gallons water capacity.
- (C) Fifty feet for storage containers of over one thousand two hundred gallons water capacity.

(vii) No direct fired tank heater shall raise the product pressure within the storage container over seventy-five percent of the pressure set out in the second column of Table H-31.(See WAC 296-24-47509.)

(e) The vaporizer section of vaporizer-burners used for dehydrators or dryers shall be located outside of buildings; they shall be constructed and installed as follows:

- (i) Vaporizer-burners shall have a minimum design pressure of 250 p.s.i.g. with a factor of safety of five.
- (ii) Manually operated positive shutoff valves shall be located at the containers to shut off all flow to the vaporizer-burners.
- (iii) Minimum distances between storage containers and vaporizer-burners shall be as follows:

Water capacity per container (gallons)	Minimum distances (feet)
Less than 501	10
501 to 2,000	25
Over 2,000	50

(iv) The vaporizer section of vaporizer-burners shall be protected by a hydrostatic relief valve. The relief valve shall be located so as not to be subjected to temperatures in excess of 140°F. The start-to-discharge pressure setting shall be such as to protect the components involved, but not less than 250 p.s.i.g. The discharge shall be directed upward and away from component parts of the equipment and away from operating personnel.

(v) Vaporizer-burners shall be provided with means for manually turning off the gas to the main burner and pilot.

(vi) Vaporizer-burners shall be equipped with automatic safety devices to shut off the flow of gas to the main burner and pilot in the event the pilot is extinguished.

(vii) Pressure regulating and control equipment shall be located or protected so that the temperatures surrounding this equipment shall not exceed 140°F except that equipment components may be used at higher temperatures if designed to withstand such temperatures.

(viii) Pressure regulating and control equipment when located downstream of the vaporizer shall be designed to withstand the maximum discharge temperature of the vapor.

(ix) The vaporizer section of vaporizer-burners shall not be provided with fusible plugs.

(x) Vaporizer coils or jackets shall be made of ferrous metal or high temperature alloys.

(xi) Equipment utilizing vaporizer-burners shall be equipped with automatic shutoff devices upstream and downstream of the vaporizer section connected so as to operate in

the event of excessive temperature, flame failure, and, if applicable, insufficient airflow.

(12) Filling densities.

(a) The "filling density" is defined as the percent ratio of the weight of the gas in a container to the weight of water the container will hold at 60°F. All containers shall be filled according to the filling densities shown in Table H-27.

**TABLE H-27**  
MAXIMUM PERMITTED FILLING DENSITY

	Above ground containers		Under-ground containers, all capacities
	0 to 1,200 U.S. gals. (1,000 imp. gal. liters) total water cap.	Over 1,200 U.S. gals. (1,000 imp. gals. liters) total water cap.	
0.496-0.503	41	44	45
.504-.510	42	45	46
.511-.519	43	46	47
.520-.527	44	47	48
.528-.536	45	48	49
.537-.544	46	49	50
.545-.552	47	50	51
.553-.560	48	51	52
.561-.568	49	52	53
.569-.576	50	53	54
.577-.584	51	54	55
.585-.592	52	55	56
.593-.600	53	56	57

(b) Except as provided in (c) of this subsection, any container including mobile cargo tanks and portable tank containers regardless of size or construction, shipped under DOT jurisdiction or constructed in accordance with 49 CFR Chapter I specifications shall be charged according to 49 CFR Chapter I requirements.

(c) Portable containers not subject to DOT jurisdiction (such as, but not limited to, motor fuel containers on industrial and lift trucks, and farm tractors covered in subsection (5) of this section, or containers recharged at the installation) may be filled either by weight, or by volume using a fixed length dip tube gaging device.

(13) LP-gas in buildings.

(a) Vapor shall be piped into buildings at pressures in excess of 20 p.s.i.g. only if the buildings or separate areas thereof,

(i) Are constructed in accordance with this section;

(ii) Are used exclusively to house equipment for vaporization, pressure reduction, gas mixing, gas manufacturing, or distribution, or to house internal combustion engines,

PERMANENT

industrial processes, research and experimental laboratories, or equipment and processes using such gas and having similar hazard;

(iii) Buildings, structures, or equipment under construction or undergoing major renovation.

(b) Liquid may be permitted in buildings as follows:

(i) Buildings, or separate areas of buildings, used exclusively to house equipment for vaporization, pressure reduction, gas mixing, gas manufacturing, or distribution, or to house internal combustion engines, industrial processes, research and experimental laboratories, or equipment and processes using such gas and having similar hazard; and when such buildings, or separate areas thereof are constructed in accordance with this section.

(ii) Buildings, structures, or equipment under construction or undergoing major renovation provided the temporary piping meets the following conditions:

(A) Liquid piping inside the building shall conform to the requirements of subsection (8) of this section, and shall not exceed three-fourths iron pipe size. Copper tubing with an outside diameter of three-fourths inch or less may be used provided it conforms to Type K of Specifications for Seamless Water Tube, ANSI H23.1-1970 (ASTM B88-1969) (see WAC 296-24-47505 Table H-24). All such piping shall be protected against construction hazards. Liquid piping inside buildings shall be kept to a minimum. Such piping shall be securely fastened to walls or other surfaces so as to provide adequate protection from breakage and so located as to subject the liquid line to lowest ambient temperatures.

(B) A shutoff valve shall be installed in each intermediate branch line where it takes off the main line and shall be readily accessible. A shutoff valve shall also be placed at the appliance end of the intermediate branch line. Such shutoff valve shall be upstream of any flexible connector used with the appliance.

(C) Suitable excess flow valves shall be installed in the container outlet line supplying liquid LP-gas to the building. A suitable excess flow valve shall be installed immediately downstream of each shutoff valve. Suitable excess flow valves shall be installed where piping size is reduced and shall be sized for the reduced size piping.

(D) Hydrostatic relief valves shall be installed in accordance with subsection (10)(m) of this section.

(E) The use of hose to carry liquid between the container and the building or at any point in the liquid line, except at the appliance connector, shall be prohibited.

(F) Where flexible connectors are necessary for appliance installation, such connectors shall be as short as practicable and shall comply with subsection (8)(b) or (9) of this section.

(G) Release of fuel when any section of piping or appliances is disconnected shall be minimized by either of the following methods:

(I) Using an approved automatic quick-closing coupling (a type closing in both directions when coupled in the fuel line), or

(II) Closing the valve nearest to the appliance and allowing the appliance to operate until the fuel in the line is consumed.

(III) Portable containers shall not be taken into buildings except as provided in subsection (6)(a) of this section.

(14) Transfer of liquids. The employer shall assure that:

(a) At least one attendant shall remain close to the transfer connection from the time the connections are first made until they are finally disconnected, during the transfer of the product.

(b) Containers shall be filled or used only upon authorization of the owner.

(c) Containers manufactured in accordance with specifications of 49 CFR Part 178 and authorized by 49 CFR Chapter 1 as a "single trip" or "nonrefillable container" shall not be refilled or reused in LP-gas service.

(d) Gas or liquid shall not be vented to the atmosphere to assist in transferring contents of one container to another, except as provided in WAC 296-24-47511 (5)(d) and except that this shall not preclude the use of listed pump utilizing LP-gas in the vapor phase as a source of energy and venting such gas to the atmosphere at a rate not to exceed that from a No. 31 drill size opening and provided that such venting and liquid transfer shall be located not less than fifty feet from the nearest important building.

(e) Filling of fuel containers for industrial trucks or motor vehicles from industrial bulk storage containers shall be performed not less than ten feet from the nearest important masonry-walled building or not less than twenty-five feet from the nearest important building or other construction and, in any event, not less than twenty-five feet from any building opening.

(f) Filling of portable containers, containers mounted on skids, fuel containers on farm tractors, or similar applications, from storage containers used in domestic or commercial service, shall be performed not less than fifty feet from the nearest important building.

(g) The filling connection and the vent from the liquid level gages in containers, filled at point of installation, shall not be less than ten feet in any direction from air openings into sealed combustion system appliances or mechanical ventilation air intakes.

(h) Fuel supply containers shall be gaged and charged only in the open air or in buildings especially provided for that purpose.

(i) The maximum vapor pressure of the product at 100°F which may be transferred into a container shall be in accordance with WAC 296-24-47509(2) and 296-24-47511(3). (For DOT containers use DOT requirements.)

(j) Marketers and users shall exercise precaution to assure that only those gases for which the system is designed, examined, and listed, are employed in its operation, particularly with regard to pressures.

(k) Pumps or compressors shall be designed for use with LP-gas. When compressors are used they shall normally take suction from the vapor space of the container being filled and discharge to the vapor space of the container being emptied.

(l) Pumping systems, when equipped with a positive displacement pump, shall include a recirculating device which shall limit the differential pressure on the pump under normal operating conditions to the maximum differential pressure rating of the pump. The discharge of the pumping system

shall be protected so that pressure does not exceed 350 p.s.i.g. If a recirculation system discharges into the supply tank and contains a manual shutoff valve, an adequate secondary safety recirculation system shall be incorporated which shall have no means of rendering it inoperative. Manual shutoff valves in recirculation systems shall be kept open except during an emergency or when repairs are being made to the system.

(m) When necessary, unloading piping or hoses shall be provided with suitable bleeder valves for relieving pressure before disconnection.

(n) Agricultural air moving equipment, including crop dryers, shall be shut down when supply containers are being filled unless the air intakes and sources of ignition on the equipment are located fifty feet or more from the container.

(o) Agricultural equipment employing open flames or equipment with integral containers, such as flame cultivators, weed burners, and, in addition, tractors, shall be shut down during refueling.

(15) Tank car or transport truck loading or unloading points and operations.

(a) The track of tank car siding shall be relatively level.

(b) A "tank car connected" sign, as covered by DOT rules, shall be installed at the active end or ends of the siding while the tank car is connected.

(c) While cars are on side track for loading or unloading, the wheels at both ends shall be blocked on the rails.

(d) The employer shall insure that an employee is in attendance at all times while the tank car, cars, or trucks are being loaded or unloaded.

(e) A backflow check valve, excess-flow valve, or a shutoff valve with means of remote closing, to protect against uncontrolled discharge of LP-gas from storage tank piping shall be installed close to the point where the liquid piping and hose or swing joint pipe is connected.

(f) ~~(Except as provided in (g) of this subsection, when the size (diameter) of the loading or unloading hoses and/or piping is reduced below the size of the tank car or transport truck loading or unloading connections, the adapters to which lines are attached shall be equipped with either a backflow check valve, a properly sized excess flow valve, or shutoff valve with means of remote closing, to protect against uncontrolled discharge from the tank car or transport truck.~~

~~(g) The requirement of (f) of this subsection shall not apply if the tank car or transport is equipped with a quick-closing internal valve that can be remotely closed.~~

~~(h) The tank car or transport truck loading or unloading point shall be located with due consideration to the following:~~

~~(i) Proximity to railroads and highway traffic.~~

~~(ii) The distance of such unloading or loading point from adjacent property.~~

~~(iii) With respect to buildings on installer's property.~~

~~(iv) Nature of occupancy.~~

~~(v) Topography.~~

~~(vi) Type of construction of buildings.~~

~~(vii) Number of tank cars or transport trucks that may be safely loaded or unloaded at one time.~~

~~(viii) Frequency of loading or unloading.~~

(~~h~~)) Where practical, the distance of the unloading or loading point shall conform to the distances in subsection (6)(b) of this section.

(16) Instructions. Personnel performing installation, removal, operation, and maintenance work shall be properly trained in such function.

(17) Electrical equipment and other sources of ignition.

(a) Electrical equipment and wiring shall be of a type specified by and shall be installed according to chapter 296-24 WAC Part L, for ordinary locations except that fixed electrical equipment in classified areas shall comply with subsection (18) of this section.

(b) Open flames or other sources of ignition shall not be permitted in vaporizer rooms (except those housing direct-fired vaporizers), pumphouses, container charging rooms or other similar locations. Direct-fired vaporizers shall not be permitted in pumphouses or container charging rooms.

Note: Liquefied petroleum gas storage containers do not require lightning protection. Since liquefied petroleum gas is contained in a closed system of piping and equipment, the system need not be electrically conductive or electrically bonded for protection against static electricity (see NFPA No. 77-1972-1973, Recommended Practice for Static Electricity).

(c) Open flames (except as provided for in (b) of this subsection), cutting or welding, portable electric tools, and extension lights capable of igniting LP-gas, shall not be permitted within classified areas specified in Table H-28 of this section unless the LP-gas facilities have been freed of all liquid and vapor, or special precautions observed under carefully controlled conditions.

(18) Fixed electrical equipment in classified areas. Fixed electrical equipment and wiring installed within classified areas shall comply with Table H-28 of this section and shall be installed according to chapter 296-24 WAC Part L. This provision does not apply to fixed electrical equipment at residential or commercial installations of LP-gas systems or to systems covered by WAC 296-24-47511 ~~((or 296-24-47515)).~~

(19) Liquid-level gaging device.

(a) Each container manufactured after December 31, 1965, and filled on a volumetric basis shall be equipped with a fixed liquid-level gage to indicate the maximum permitted filling level as provided in (e) of this subsection. Each container manufactured after December 31, 1969, shall have permanently attached to the container adjacent to the fixed level gage a marking showing the percentage full that will be shown by that gage. When a variable liquid-level gage is also provided, the fixed liquid-level gage will also serve as a means for checking the variable gage. These gages shall be used in charging containers as required in subsection (12) of this section.

(b) All variable gaging devices shall be arranged so that the maximum liquid level for butane, for a fifty-fifty mixture of butane and propane, and for propane, to which the container may be charged is readily determinable. The markings indicating the various liquid levels from empty to full shall be on the system nameplate or gaging device or part may be on the system nameplate and part on the gaging device. Dials of magnetic or rotary gages shall show whether they are for

cylindrical or spherical containers and whether for above-ground or underground service. The dials of gages intended for use only on aboveground containers of over one thousand two hundred gallons water capacity shall be so marked.

(c) Gaging devices that require bleeding of the product to the atmosphere, such as the rotary tube, fixed tube, and slip tube, shall be designed so that the bleed valve maximum opening is not larger than a No. 54 drill size, unless provided with excess flow valve.

(d) Gaging devices shall have a design working pressure of at least 250 p.s.i.g.

(e) Length of tube or position of fixed liquid-level gage shall be designed to indicate the maximum level to which the container may be filled for the product contained. This level shall be based on the volume of the product at 40°F at its maximum permitted filling density for aboveground containers and at 50°F for underground containers. The employer shall calculate the filling point for which the fixed liquid level gage shall be designed according to the method in this subsection.

TABLE H-28

Part	Location	Extent of classified area <sup>1</sup>	Equipment shall be suitable for Class I, Group D <sup>2</sup>
A	Storage containers other than DOT cylinders.	Within 15 feet in all directions from connections, except connections otherwise covered in Table H-28.	Division 2.
B	Tank vehicle and tank car loading and unloading. <sup>3</sup>	Within 5 feet in all directions from connections regularly made or disconnected for product transfer.	Division 1.
		Beyond 5 feet but within 15 feet in all directions from a point where connections are regularly made or disconnected and within the cylindrical volume between the horizontal equator of the sphere and grade. (See Figure H-1.)	Division 2.
C	Gage vent openings other than those on DOT cylinders.	Within 5 feet in all directions from point of discharge.	Division 1.
		Beyond 5 feet but within 15 feet in all directions from point of discharge.	Division 2.

Part	Location	Extent of classified area <sup>1</sup>	Equipment shall be suitable for Class I, Group D <sup>2</sup>
D	Relief valve discharge other than those on DOT cylinders.	Within direct path of discharge.	Division 1. NOTE—Fixed electrical equipment should preferably not be installed.
		Within 5 feet in all directions from point of discharge. Beyond 5 feet but within 15 feet in all directions from point of discharge except within the direct path of discharge.	Division 1. Division 2.
E	Pumps, compressors, gas-air mixers and vaporizers other than direct fired. Indoors without ventilation	Entire room and any adjacent room not separated by a gastight partition.	Division 1.
		Within 15 feet of the exterior side of any exterior wall or roof that is not vaportight or within 15 feet of any exterior opening.	Division 2.
		Indoors with adequate ventilation. <sup>4</sup>	Division 2.
F	Service station dispensing units.	Outdoors in open air at or above-grade.	Division 2.
		Entire space within dispenser enclosure, and 18 inches horizontally from enclosure exterior up to an elevation 4 ft. above dispenser base.	Division 1.
		Entire pit or open space beneath dispenser. Up to 18 inches abovegrade within 20 ft. horizontally from any edge of enclosure.	Division 2.

PERMANENT

Part	Location	Extent of classified area <sup>1</sup>	Equipment shall be suitable for Class I, Group D <sup>2</sup>
NOTE: For pits within this area, see Part F of this table.			
G	Pits or trenches containing or located beneath LP-gas valves, pumps, compressors, regulators, and similar equipment.	Without mechanical ventilation.	Entire pit or trench Division 1.
			Entire room and any adjacent room not separated by a gastight partition. Division 2.
			Within 15 feet in all directions from pit or trench when located outdoors. Division 2.
	With adequate mechanical ventilation.		Entire pit or trench Division 2
			Entire room and any adjacent room not separated by a gastight partition. Division 2.
			Within 15 feet in all directions from pit or trench when located outdoors. Division 2.
H	Special buildings or rooms for storage of portable containers.	Entire room	Division 2.
I	Pipelines and connections containing operational bleeds, drips, vents or drains.	Within 5 ft. in all directions from point of discharge.	Division 1.
J	Container filling: Indoors without ventilation.	Beyond 5 ft. from point of discharge, same as Part E of this table.	
			Entire room Division 1.
			Indoors with adequate ventilation. <sup>4</sup> Within 5 feet in all directions from connections regularly made or disconnected for product transfer. Division 1.
		Beyond 5 feet and entire room	Division 2.

Part	Location	Extent of classified area <sup>1</sup>	Equipment shall be suitable for Class I, Group D <sup>2</sup>
	Outdoors in open air	Within 5 feet in all directions from connections regularly made or disconnected for product transfer. Beyond 5 feet but within 15 feet in all directions from a point where connections are regularly made or disconnected and within the cylindrical volume between the horizontal equator of the sphere and grade (See Fig. H-1.)	Division 1.  Division 2.

<sup>1</sup>The classified area shall not extend beyond an unpierced wall, roof, or solid vaportight partition.

<sup>2</sup>See chapter 296-46 WAC, and chapter 296-24 WAC Part L.

<sup>3</sup>When classifying extent of hazardous area, consideration shall be given to possible variations in the spotting of tank cars and tank vehicles at the unloading points and the effect these variations of actual spotting point may have on the point of connection.

<sup>4</sup>Ventilation, either natural or mechanical, is considered adequate when the concentration of the gas in a gas-air mixture does not exceed twenty-five percent of the lower flammable limit under normal operating conditions.

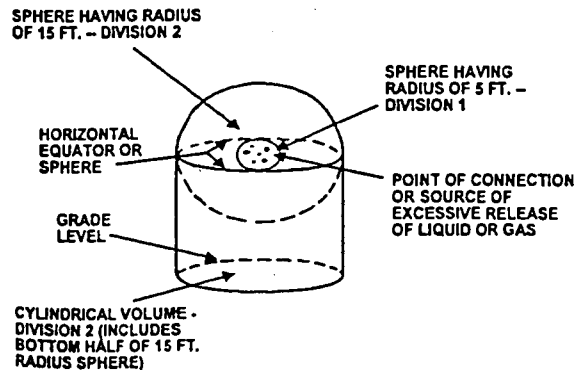


Figure H-1

Note: It is impossible to set out in a table the length of a fixed dip tube for various capacity tanks because of the varying tank diameters and lengths and because the tank may be installed either in a vertical or horizontal position. Knowing the maximum permitted filling volume in gallons, however, the length of the fixed tube can be determined by the use of a strapping table obtained from the container manufacturer. The length of the fixed tube should be such that when its

PERMANENT

lower end touches the surface of the liquid in the container, the contents of the container will be the maximum permitted volume as determined by the following formula:

$$\frac{\text{Water capacity (gals.) of container} \times \text{filling density}^{**}}{\text{Specific gravity of LP-gas} \times \text{volume correction factor}^{***} \times 100} = \text{Maximum volume of LP-gas}$$

- \* Measure at 60°F.
- \*\* From subsection (12)(a) of this section "filling densities."
- \*\*\* For aboveground containers the liquid temperature is assumed to be 40°F and for underground containers the liquid temperature is assumed to be 50°F. To correct the liquid volumes at these temperatures to 60°F the following factors shall be used.

(i) Formula for determining maximum volume of liquefied petroleum gas for which a fixed length of dip tube shall be set:

**TABLE H-29**  
VOLUME CORRECTION FACTORS

Specific gravity	Aboveground	Underground
0.500	1.033	1.017
.510	1.031	1.016
.520	1.029	1.015
.530	1.028	1.014
.540	1.026	1.013
.550	1.025	1.013
.560	1.024	1.012
.570	1.023	1.011
.580	1.021	1.011
.590	1.020	1.010

(ii) The maximum volume of LP-gas which can be placed in a container when determining the length of the dip tube expressed as a percentage of total water content of the container is calculated by the following formula.

(iii) The maximum weight of LP-gas which may be placed in a container for determining the length of a fixed dip tube is determined by multiplying the maximum volume of liquefied petroleum gas obtained by the formula in (e)(i) of this subsection by the pounds of liquefied petroleum gas in a gallon at 40°F for aboveground and at 50°F for underground containers. For example, typical pounds per gallon are specified below:

Example: Assume a one hundred-gallon total water capacity tank for aboveground storage of propane having a specific gravity of 0.510 of 60°F.

$$\frac{100 \text{ (gals.)} \times 42 \text{ (filling density from (12)(a) of this subsection)}}{0.510 \times 1.031 \text{ (correction factor from Table H-29)} \times 100} = \frac{4200}{52.6}$$

79.8 gallons propane, the maximum amount permitted to be placed in a 100-gallon total water capacity aboveground container equipped with a fixed dip tube.

$$\frac{\text{Maximum volume of LP-gas (from formula in (e)(i) of this subsection)} \times 100}{\text{Total water content of container in gallons.}} = \text{Maximum percent of LP-gas}$$

	Aboveground, pounds per gallon	Underground, pounds per gallon
Propane.....	4.37	4.31
N Butane.....	4.97	4.92

(f) Fixed liquid-level gages used on containers other than DOT containers shall be stamped on the exterior of the gage with the letters "DT" followed by the vertical distance (expressed in inches and carried out to one decimal place) from the top of container to the end of the dip tube or to the centerline of the gage when it is located at the maximum permitted filling level. For portable containers that may be filled in the horizontal and/or vertical position the letters "DT" shall be followed by "V" with the vertical distance from the top of the container to the end of the dip tube for vertical filling and with "H" followed by the proper distance for horizontal filling. For DOT containers the stamping shall be placed both on the exterior of the gage and on the container. On aboveground or cargo containers where the gages are positioned at specific levels, the marking may be specified in percent of total tank contents and the marking shall be stamped on the container.

(g) Gage glasses of the columnar type shall be restricted to charging plants where the fuel is withdrawn in the liquid phase only. They shall be equipped with valves having metallic handwheels, with excess flow valves, and with extra-heavy glass adequately protected with a metal housing applied by the gage manufacturer. They shall be shielded against the direct rays of the sun. Gage glasses of the columnar type are prohibited on tank trucks, and on motor fuel tanks, and on containers used in domestic, commercial, and industrial installations.

(h) Gaging devices of the float, or equivalent type which do not require flow for their operation and having connections extending to a point outside the container do not have to be equipped with excess flow valves provided the piping and fittings are adequately designed to withstand the container pressure and are properly protected against physical damage and breakage.

(20) Requirements for appliances.

(a) Except as provided in (b) of this subsection, new commercial and industrial gas consuming appliances shall be approved.

(b) Any appliance that was originally manufactured for operation with a gaseous fuel other than LP-gas and is in good condition may be used with LP-gas only after it is properly converted, adapted, and tested for performance with LP-gas before the appliance is placed in use.

(c) Unattended heaters used inside buildings for the purpose of animal or poultry production or care shall be equipped with an approved automatic device designed to shut

PERMANENT



off the flow of gas to the main burners, and pilot if used, in the event of flame extinguishment.

(d) All commercial, industrial, and agricultural appliances or equipment shall be installed in accordance with the requirements of these standards and in accordance with the following:

(i) Domestic and commercial appliances—NFPA 54-1969, Standard for the Installation of Gas Appliances and Gas Piping.

(ii) Industrial appliances—NFPA 54A-1969, Standard for the Installation of Gas Piping and Gas Equipment on Industrial Premises and Certain Other Premises.

(iii) Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines—NFPA 37-1970.

(iv) Standard for the Installation of Equipment for the Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment, NFPA 96-1970.

**AMENDATORY SECTION** (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-24-47507 Cylinder systems.** (1) Application. This section applies specifically to systems utilizing containers constructed in accordance with DOT specifications. All requirements of WAC 296-24-47505 apply to this section unless otherwise noted in WAC 296-24-47505.

(2) Marking of containers. ~~((f))~~ Containers shall be marked in accordance with DOT regulations. Additional markings not in conflict with DOT regulations may be used.

~~((b) Except as provided in (c) of this subsection each container shall be marked with its water capacity in pounds or other identified unit of weight.~~

~~(e) If a container is filled and maintained only by the owner or the owners representative and if the water capacity of each container is identified by a code, compliance with (b) of this subsection is not required.~~

~~(d) Each container shall be marked with its tare weight in pounds or other identified unit of weight including all permanently attached fittings but not the cap.)~~

(3) Description of a system. A system shall include the container base or bracket, containers, container valves, connectors, manifold valve assembly, regulators, and relief valves.

(4) Containers and regulating equipment installed outside of buildings or structures.

(a) Containers shall not be buried below ground. However, this shall not prohibit the installation in a compartment or recess below grade level, such as a niche in a slope or terrace wall which is used for no other purpose, providing that the container and regulating equipment are not in contact with the ground and the compartment or recess is drained and ventilated horizontally to the outside air from its lowest level, with the outlet at least three feet away from any building opening which is below the level of such outlet.

Except as provided in WAC 296-24-47505 (10)(n), the discharge from safety relief devices shall be located not less than three feet horizontally away from any building opening which is below the level of such discharge and shall not terminate beneath any building unless such space is well venti-

lated to the outside and is not enclosed on more than two sides.

(b) Containers shall be set upon firm foundation or otherwise firmly secured; the possible effect on the outlet piping of settling shall be guarded against by a flexible connection or special fitting.

(5) Containers and equipment used inside of buildings or structures.

(a) When operational requirements make portable use of containers necessary and their location outside of buildings or structures is impracticable, containers and equipment are permitted to be used inside of buildings or structures in accordance with (a)(i) through (xii) of this subsection, and, in addition, such other provisions of this section as are applicable to the particular use or occupancy.

(i) Containers in use shall mean connected for use.

(ii) Systems utilizing containers having a water capacity greater than two and one-half pounds (nominal one pound LP-gas capacity) shall be equipped with excess flow valves. Such excess flow valves shall be either integral with the container valves or in the connections to the container valve outlets. In either case, an excess flow valve shall be installed in such a manner that any undue strain beyond the excess flow valve will not cause breakage between the container and the excess flow valve. The installation of excess flow valves shall take into account the type of valve protection provided.

(iii) Regulators, if used, shall be either directly connected to the container valves or to manifolds connected to the container valves. The regulator shall be suitable for use with LP-gas. Manifolds and fittings connecting containers to pressure regulator inlets shall be designed for at least 250 p.s.i.g. service pressure.

(iv) Valves on containers having a water capacity greater than fifty pounds (nominal twenty pounds LP-gas capacity) shall be protected while in use.

(v) Containers shall be marked in accordance with WAC 296-24-47505 (5)(c) and subsection (2) of this section.

(vi) Pipe or tubing shall conform to WAC 296-24-47505(8) except that aluminum pipe or tubing shall not be used.

(vii) Hose shall be designed for a working pressure of at least 250 p.s.i.g. Hose and hose connections shall have their correctness as to design, construction and performance determined by listing by a nationally recognized testing laboratory.

(A) The hose length may exceed the length specified in WAC 296-24-47505 (9)(g)(ii), but shall be as short as practicable. Refer to federal regulation 29 CFR 1910.7 for definition of nationally recognized testing laboratory.

(B) Hose shall be long enough to permit compliance with spacing provisions of this section without kinking or straining or causing hose to be so close to a burner as to be damaged by heat.

(viii) Portable heaters, including salamanders, shall be equipped with an approved automatic device to shut off the flow of gas to the main burner, and pilot if used, in the event of flame extinguishment. Such heaters having inputs above 50,000 B.t.u. manufactured on or after May 17, 1967, and such heaters having inputs above 100,000 B.t.u. manufactured before May 17, 1967, shall be equipped with either:

(A) A pilot which must be lighted and proved before the main burner can be turned on; or

(B) An electric ignition system. The provisions of (a)(viii) of this subsection do not apply to tar kettle burners, torches, melting pots, nor do they apply to portable heaters under 7,500 B.t.u.h. input when used with containers having a maximum water capacity of two and one-half pounds. Container valves, connectors, regulators, manifolds, piping, and tubing shall not be used as structural supports for heaters.

(ix) Containers, regulating equipment, manifolds, pipe, tubing, and hose shall be located so as to minimize exposure to abnormally high temperatures (such as may result from exposure to convection or radiation from heating equipment or installation in confined spaces), physical damage, or tampering by unauthorized persons.

(x) Heat producing equipment shall be located and used so as to minimize the possibility of ignition of combustibles.

(xi) Containers having water capacity greater than two and one-half pounds (nominal one pound LP-gas capacity) connected for use, shall stand on a firm and substantially level surface and, when necessary, shall be secured in an upright position.

(xii) Containers, including the valve protective devices, shall be installed so as to minimize the probability of impingement of discharge of safety relief devices upon containers.

(b) Containers having a maximum water capacity of two and one-half pounds (nominal one pound LP-gas capacity) are permitted to be used inside of buildings as part of approved self-contained hand torch assemblies or similar appliances.

(c) Containers having a maximum water capacity of twelve pounds (nominal five pounds LP-gas capacity) are permitted to be used temporarily inside of buildings for public exhibition or demonstration purposes, including use for classroom demonstrations.

(d) When buildings frequented by the public are open to the public, containers are permitted to be used for repair or minor renovation as follows:

(i) The maximum water capacity of individual containers shall be fifty pounds (nominal twenty pounds LP-gas capacity).

(ii) The number of LP-gas containers shall not exceed the number of workers assigned to using the LP-gas.

(iii) Containers having a water capacity of greater than two and one-half pounds (nominal one pound LP-gas capacity) shall not be left unattended in such buildings.

(e) When buildings frequented by the public are not open to the public, containers are permitted to be used for repair or minor renovations, as follows:

The provisions of (f) of this subsection shall apply except that containers having a water capacity greater than two and one-half pounds (nominal one pound LP-gas capacity) shall not be left unattended in such buildings.

(f) Containers are permitted to be used in buildings or structures under construction or undergoing major renovation when such buildings or structures are not occupied by the public, as follows:

(i) The maximum water capacity of individual containers shall be two hundred forty-five pounds (nominal one hundred pounds LP-gas capacity).

(ii) For temporary heating such as curing concrete, drying plaster and similar applications, heaters (other than integral heater-container units) shall be located at least six feet from any LP-gas container. This shall not prohibit the use of heaters specifically designed for attachment to the container or to a supporting standard, provided they are designed and installed so as to prevent direct or radiant heat application from the heater onto the container. Blower and radiant type heater shall not be directed toward any LP-gas container within twenty feet.

(iii) If two or more heater-container units, of either the integral or nonintegral type, are located in an unpartitioned area on the same floor, the container or containers of each unit shall be separated from the container or containers of any other unit by at least twenty feet.

(iv) When heaters are connected to containers for use in an unpartitioned area on the same floor, the total water capacity of containers manifolded together for connection to a heater or heaters shall not be greater than seven hundred thirty-five pounds (nominal three hundred pounds LP-gas capacity). Such manifolds shall be separated by at least twenty feet.

(v) On floors on which heaters are not connected for use, containers are permitted to be manifolded together for connection to a heater or heaters on another floor, provided:

(A) The total water capacity of containers connected to any one manifold is not greater than two thousand four hundred fifty pounds (nominal one thousand pounds LP-gas capacity) and;

(B) Where more than one manifold having a total water capacity greater than seven hundred thirty-five pounds (nominal three hundred pounds LP-gas capacity) are located in the same unpartitioned area, they shall be separated by at least fifty feet.

(vi) Storage of containers awaiting use shall be in accordance with WAC 296-24-47513.

(g) Containers are permitted to be used in industrial occupancies for processing, research, or experimental purposes as follows:

(i) The maximum water capacity of individual containers shall be two hundred forty-five pounds (nominal one hundred pounds LP-gas capacity).

(ii) Containers connected to a manifold shall have a total water capacity not greater than seven hundred thirty-five pounds (nominal three hundred pounds LP-gas capacity) and not more than one such manifold may be located in the same room unless separated at least twenty feet from a similar unit.

(iii) The amount of LP-gas in containers for research and experimental use shall be limited to the smallest practical quantity.

(h) Containers are permitted to be used in industrial occupancies with essentially noncombustible contents where portable equipment for space heating is essential and where a permanent heating installation is not practical, as follows: Containers and heaters shall comply with and be used in accordance with (f) of this subsection.

(i) Containers are permitted to be used in buildings for temporary emergency heating purposes, if necessary to prevent damage to the buildings or contents, when the permanent heating system is temporarily out of service, as follows:

(i) Containers and heaters shall comply with and be used in accordance with (f) of this subsection.

(ii) The temporary heating equipment shall not be left unattended.

(j) Containers are permitted to be used temporarily in buildings for training purposes related in installation and use of LP-gas systems, as follows:

(i) The maximum water capacity of individual containers shall be two hundred forty-five pounds (nominal one hundred pounds LP-gas capacity), but the maximum quantity of LP-gas that may be placed in each container shall be twenty pounds.

(ii) If more than one such container is located in the same room, the containers shall be separated by at least twenty feet.

(iii) Containers shall be removed from the building when the training class has terminated.

(6) Container valves and accessories.

(a) Valves in the assembly of multiple container systems shall be arranged so that replacement of containers can be made without shutting off the flow of gas in the system.

Note: This provision is not to be construed as requiring an automatic changeover device.

(b) Regulators and low-pressure relief devices shall be rigidly attached to the cylinder valves, cylinders, supporting standards, the building walls or otherwise rigidly secured and shall be so installed or protected that the elements (sleet, snow, or ice) will not affect their operation.

(c) Valves and connections to the containers shall be protected while in transit, in storage, and while being moved into final utilization, as follows:

(i) By setting into the recess of the container to prevent the possibility of their being struck if the container is dropped upon a flat surface, or

(ii) By ventilated cap or collar, fastened to the container capable of withstanding a blow from any direction equivalent to that of a thirty-pound weight dropped four feet. Construction must be such that a blow will not be transmitted to the valve or other connection.

(d) When containers are not connected to the system, the outlet valves shall be kept tightly closed or plugged, even though containers are considered empty.

(e) Containers having a water capacity in excess of fifty pounds (approximately twenty-one pounds LP-gas capacity), recharged at the installation, shall be provided with excess flow or backflow check valves to prevent the discharge of container contents in case of failure of the filling or equalizing connection.

(7) Safety devices.

(a) Containers shall be provided with safety devices as required by DOT regulations.

(b) A final stage regulator of an LP-gas system (excluding any appliance regulator) shall be equipped on the low-pressure side with a relief valve which is set to start to discharge within the limits specified in Table H-30.

TABLE H-30

Regulatory delivery pressure	Relief valve start to discharge pressure setting (percent of regulator deliver pressure)	
	Minimum	Maximum
1 p.s.i.g. or less _____	200	300
Above 1 p.s.i.g. but not over 3 p.s.i.g. _____	140	200
Above 3 p.s.i.g. _____	125	200

(c) When a regulator or pressure relief valve is used inside a building for other than purposes specified in WAC 296-24-47505 (6)(a)(i) through (vi), the relief valve and the space above the regulator and relief valve diaphragms shall be vented to the outside air with the discharge outlet located not less than three feet horizontally away from any building opening which is below such discharge. These provisions do not apply to individual appliance regulators when protection is otherwise provided nor to subsection (5) of this section and WAC 296-24-47505 (10)(n). In buildings devoted exclusively to gas distribution purposes, the space above the diaphragm need not be vented to the outside.

(8) Reinstallation of containers. Containers shall not be reinstalled unless they are requalified in accordance with DOT regulations.

Permissible product. A product shall not be placed in a container marked with a service pressure less than four-fifths of the maximum vapor pressure of product at 130°F.

**AMENDATORY SECTION** (Amending Order 73-5, filed 5/9/73 and Order 73-4, filed 5/7/73)

**WAC 296-24-47511 Liquefied petroleum gas as a motor fuel.** (1) Application.

(a) This section applies to internal combustion engines, fuel containers, and pertinent equipment for the use of liquefied petroleum gases as a motor fuel on easily movable, readily portable units including self-propelled vehicles.

(b) Fuel containers and pertinent equipment for internal combustion engines using liquefied petroleum gas where installation is of the stationary type are covered by WAC 296-24-47509. This section does not apply to containers for transportation of liquefied petroleum gases nor to marine fuel use. All requirements of WAC 296-24-47505 apply to this section, unless otherwise noted in WAC 296-24-47505.

(2) General.

(a) Fuel may be used from the cargo tank of a truck while in transit, but not from cargo tanks on trailers or semitrailers. The use of fuel from the cargo tanks to operate stationary engines is permitted providing wheels are securely blocked.

(b) Passenger-carrying vehicles shall not be fueled while passengers are on board.

(c) Industrial trucks (including lift trucks) equipped with permanently mounted fuel containers shall be charged out-

PERMANENT

doors. Charging equipment shall comply with the provisions of WAC 296-24-47517.

(d) LP-gas fueled industrial trucks shall comply with the Standard for Type Designations, Areas of Use, Maintenance and Operation of Powered Industrial Trucks, NFPA 505-1969.

(e) Engines on vehicles shall be shut down while fueling if the fueling operation involves venting to the atmosphere.

(3) Design pressure and classification of fuel containers.

(a) Except as covered in (3)(b) and (c) of this section, containers shall be in accordance with Table H-32.

(b) Fuel containers for use in industrial trucks (including lift trucks) shall be either DOT containers authorized for LP-gas service having a minimum service pressure of 240 p.s.i.g or minimum Container Type 250. Under 1950 and later ASME Codes, this means a 312.5-p.s.i.g design pressure container.

TABLE H-32

Container type	For gases with vapor press. Not to exceed lb. per sq. in. gage at 100°F. (37.8°C.)	Minimum design pressure of container lb. per sq. in. gage	
		1949 and earlier editions of ASME Code (Par. U-68, U-69)	1949 edition of ASME Code (Par. U-200, 1U-201); 1950, 1952, 1956, 1959, 1962, 1965, and 1968 (Division I) editions of ASME Code; All editions of API-ASME Code <sup>2</sup>
200 <sup>1</sup>	215	200	250

<sup>1</sup> Container type may be increased by increments of 25. The minimum design pressure of containers shall be 100% of the container type designation when constructed under 1949 or earlier editions of the ASME Code (Par. U-68 and U-69). The minimum design pressure of containers shall be 125% of the container type designation when constructed under: (1) The 1949 ASME Code (Par. U-200 and U-201), (2) 1950, 1952, 1956, 1959, 1962, 1965, and 1968 (Division I) editions of the ASME Code, and (3) all editions of the API-ASME Code.

<sup>2</sup> Construction of containers under the API-ASME Code is not authorized after July 1, 1961.

(c) Containers manufactured and maintained under DOT specifications and regulations may be used as fuel containers. When so used they shall conform to all requirements of this section.

(d) All container inlets and outlets except safety relief valves and gaging devices shall be labeled to designate whether they communicate with vapor or liquid space. (Labels may be on valves.)

(4) Installation of fuel containers.

(a) Containers shall be located in a place and in a manner to minimize the possibility of damage to the container. Containers located in the rear of trucks and buses, when protected by substantial bumpers, will be considered in conformance with this requirement. Fuel containers on passenger-carrying vehicles shall be installed as far from the engine as is practicable, and the passenger space and any space containing

radio equipment shall be sealed from the container space to prevent direct seepage of gas to these spaces. The container compartment shall be vented to the outside. In case the fuel container is mounted near the engine or the exhaust system, the container shall be shielded against direct heat radiation.

(b) Containers shall be installed with as much clearance as practicable but never less than the minimum road clearance of the vehicle under maximum spring deflection. This minimum clearance shall be to the bottom of the container or to the lowest fitting on the container or housing, whichever is lower.

(c) Permanent and removable fuel containers shall be securely mounted to prevent jarring loose, slipping, or rotating, and the fastenings shall be designed and constructed to withstand static loading in any direction equal to twice the weight of the tank and attachments when filled with fuel using a safety factor of not less than four based on the ultimate strength of the material to be used. Field welding, when necessary, shall be made only on saddle plates, lugs or brackets, originally attached to the container by the tank manufacturer.

(d) Fuel containers on buses shall be permanently installed.

(e) Containers from which vapor only is to be withdrawn shall be installed and equipped with suitable connections to minimize the accidental withdrawal of liquid.

(5) Valves and accessories.

(a) Container valves and accessories shall have a rated working pressure of at least 250 p.s.i.g., and shall be of a type suitable for liquefied petroleum gas service.

(b) The filling connection shall be fitted with an approved double back-pressure check valve, or a positive shutoff in conjunction with an internal back-pressure check valve. On a removable container the filler valve may be a hand operated shutoff valve with an internal excess flow valve. Main shutoff valves on the container on liquid and vapor must be readily accessible.

(c) With the exceptions of (5)(d)(iii) of this section, filling connections equipped with approved automatic back-pressure check valves, and safety relief valves, all connections to the containers having openings for the flow of gas in excess of a No. 54 drill size shall be equipped with approved automatic excess flow valves to prevent discharge of content in case connections are broken.

(d) Liquid-level gaging devices:

(i) Variable liquid-level gages which require the venting of fuel to the atmosphere shall not be used on fuel containers of industrial trucks (including lift trucks).

(ii) On portable containers that may be filled in the vertical and/or horizontal position, the fixed liquid-level gage shall indicate maximum permitted filling level for both vertical and horizontal filling with the container oriented to place the safety relief valve in communication with the vapor space.

(iii) In the case of containers used solely in farm tractor service and charged at a point at least 50 feet from any important building, the fixed liquid-level gaging device may be so constructed that the outward flow of container content exceeds that passed by a No. 54 drill size opening, but in no case shall the flow exceed that passed by a No. 31 drill-size

PERMANENT

opening. An excess flow valve is not required. Fittings equipped with such restricted drill size opening and container on which they are used shall be marked to indicate the size of the opening.

(iv) All valves and connections on containers shall be adequately protected to prevent damage due to accidental contact with stationary objects or from loose objects thrown up from the road, and all valves shall be safeguarded against damage due to collision, overturning or other accident. For farm tractors where parts of the vehicle provide such protection to valves and fittings, the foregoing requirements shall be considered fulfilled. However, on removable type containers the protection for the fittings shall be permanently attached to the container.

(v) (Exchange of removable fuel containers preferably should be done outdoors but may be done indoors.) When removable fuel containers are used, means shall be provided in the fuel system to minimize the escape of fuel when the containers are exchanged. This shall be accomplished by one of the following methods:

(A) Using an approved automatic quick-closing coupling (a type closing in both directions when uncoupled) in the fuel line, or

(B) Closing the valve at the fuel container and allowing the engine to run until the fuel in the line is consumed.

(6) Piping—Including pipe, tubing, and fittings.

(a) Pipe from fuel container to first-stage regulator shall be not less than schedule 80 wrought iron or steel (black or galvanized), brass or copper; or seamless copper, brass, or steel tubing. Steel tubing shall have a minimum wall thickness of 0.049 inch. Steel pipe or tubing shall be adequately protected against exterior corrosion. Copper tubing shall be types K or L or equivalent having a minimum wall thickness of 0.032 inch. Approved flexible connections may be used between container and regulator or between regulator and gas-air mixer within the limits of approval. The use of aluminum pipe or tubing is prohibited. In the case of removable containers an approved flexible connection shall be used between the container and the fuel line.

(b) All piping shall be installed, braced, and supported so as to reduce to a minimum the possibility of vibration strains or wear.

(7) Safety devices.

(a) Spring-loaded internal type safety relief valves shall be used on all motor fuel containers.

(b) The discharge outlet from safety relief valves shall be located on the outside of enclosed spaces and as far as practicable from possible sources of ignition, and vented upward within 45 degrees of the vertical in such a manner as to prevent impingement of escaping gas upon containers, or parts of vehicles, or on vehicles in adjacent lines of traffic. A rain cap or other protector shall be used to keep water and dirt from collecting in the valve.

(c) When a discharge line from the container safety relief valve is used, the line shall be metallic, other than aluminum, and shall be sized, located, and maintained so as not to restrict the required flow of gas from the safety relief valve. Such discharge line shall be able to withstand the pressure resulting from the discharge of vapor when the safety relief

valve is in the full open position. When flexibility is necessary, flexible metal hose or tubing shall be used.

(d) Portable containers equipped for volumetric filling may be filled in either the vertical or horizontal position only when oriented to place the safety relief valve in communication with the vapor space.

(e) WAC 296-24-47505 (10)(1) for hydrostatic relief valves shall apply.

(8) Vaporizers.

(a) Vaporizers and any part thereof and other devices that may be subjected to container pressure shall have a design pressure of at least 250 p.s.i.g.

(b) Each vaporizer shall have a valve or suitable plug which will permit substantially complete draining of the vaporizer. It shall be located at or near the lowest portion of the section occupied by the water or other heating medium.

(c) Vaporizers shall be securely fastened so as to minimize the possibility of becoming loosened.

(d) Each vaporizer shall be permanently marked at a visible point as follows:

(i) With the design pressure of the fuel-containing portion in p.s.i.g.

(ii) With the water capacity of the fuel-containing portion of the vaporizer in pounds.

(e) Devices to supply heat directly to a fuel container shall be equipped with an automatic device to cut off the supply of heat before the pressure inside the fuel container reaches 80 percent of the start to discharge pressure setting of the safety relief device on the fuel container.

(f) Engine exhaust gases may be used as a direct source of heat supply for the vaporization of fuel if the materials of construction of those parts of the vaporizer in contact with exhaust gases are resistant to the corrosive action of exhaust gases and the vaporizer system is designed to prevent excessive pressures.

(g) Vaporizers shall not be equipped with fusible plugs.

(9) Gas regulating and mixing equipment.

(a) Approved automatic pressure reducing equipment shall be installed in a secure manner between the fuel supply container and gas-air mixer for the purpose of reducing the pressure of the fuel delivered to the gas-air mixer.

(b) An approved automatic shutoff valve shall be provided in the fuel system at some point ahead of the inlet of the gas-air mixer, designed to prevent flow of fuel to the mixer when the ignition is off and the engine is not running. In the case of industrial trucks and engines operating in buildings other than those used exclusively to house engines, the automatic shutoff valve shall be designed to operate if the engine should stop. Atmospheric type regulators (zero governors) shall be considered adequate as an automatic shutoff valve only in cases of outdoor operation such as farm tractors, construction equipment, irrigation pump engines, and other outdoor stationary engine installations.

(c) The source of the air for combustion shall be completely isolated from the passenger compartment, ventilating system, or air-conditioning system.

(10) ~~((Capacity of containers. No single fuel container used on passenger-carrying vehicles shall exceed 200 gallons water capacity. No single fuel container on other vehicles~~

~~normally operating on the highway shall exceed 300 gallons water capacity except as provided in (2)(a) of this section.~~

~~((H))~~ Stationary engines in buildings. Stationary engines and gas turbines installed in buildings, including portable engines used instead of or to supplement stationary engines, shall comply with the Standard for the Institution and Use of Stationary Combustion Engines and Gas Turbines, NFPA 37-1970, and the appropriate provisions of WAC 296-24-47505 through 296-24-47509.

~~((I2))~~ (11) Portable engines in buildings.

(a) Portable engines may be used in buildings only for emergency use, except as provided by (11) of this section.

(b) Exhaust gases shall be discharged to outside the building or to an area where they will not constitute a hazard.

(c) Provision shall be made to supply sufficient air for combustion and cooling.

(d) An approved automatic shutoff valve shall be provided in the fuel system ahead of the engine, designed to prevent flow of fuel to the engine when the ignition is off or if the engine should stop.

(e) The capacity of LP-gas containers used with such engines shall comply with the applicable occupancy provision of WAC 296-24-47507(5).

~~((J3))~~ (12) Industrial trucks inside buildings.

(a) LP-gas-fueled industrial trucks are permitted to be used in buildings and structures.

(b) No more than two LP-gas containers shall be used on an industrial truck for motor fuel purposes.

(c) LP-gas-fueled industrial trucks are permitted to be used in buildings frequented by the public, when occupied by the public. The total water capacity of containers on each industrial truck shall not exceed 105 pounds (nominal 45 pounds LP-gas).

(d) Trucks shall not be left unattended in areas occupied by the public.

(e) Industrial trucks shall not be parked and left unattended in areas of possible excessive heat or sources of ignition.

~~((K4))~~ (13) Garaging LP-gas-fueled vehicles.

(a) LP-gas-fueled vehicles may be stored or serviced inside garages provided there are no leaks in the fuel system and the fuel tanks are not filled beyond the maximum filling capacity specified in WAC 296-24-47505 (12)(a).

(b) LP-gas-fueled vehicles being repaired in garages shall have the container shutoff valve closed except when fuel is required for engine operation.

(c) Such vehicles shall not be parked near sources of heat, open flames, or similar sources of ignition or near open pits unless such pits are adequately ventilated.

**AMENDATORY SECTION** (Amending Order 80-21, filed 11/13/80)

**WAC 296-24-51017 Systems mounted on trucks, semi-trailers, and trailers for transportation of ammonia.** This section applies specifically to systems mounted on trucks, semi-trailers and trailers (other than those covered under WAC 296-24-51019 and 296-24-51021) used for the transportation of ammonia. All basic rules of WAC 296-24-51009 apply to this section unless otherwise noted. Systems

for trucks and trailers for transportation of anhydrous ammonia, in addition to complying with the requirements of these standards, shall also comply where required, with the requirements of the department of transportation and those of any other regulatory body which may apply.

(1) Design pressure of containers.

(a) Containers used in intrastate commerce shall be constructed in accordance with WAC 296-24-51009(2) with a minimum design pressure of 250 psig. Containers used in interstate commerce shall meet DOT regulations.

(b) The shell or head thickness of any container shall not be less than 3/16 inch.

(c) All container openings, except safety relief valves, liquid level gaging devices and pressure gages, shall be labeled to designate whether they communicate with liquid or vapor space. Labels may be on valves.

(d) Baffles are not required for cargo tanks.

(2) Mounting containers on truck.

(a) The means of attachment of any container to the cradle, frame or chassis of a vehicle shall be designed on a basis of two "g" loading in either direction, using a safety factor of not less than 4, based on the ultimate strength of the material used. For purposes of this requirement, two "g" of load support is equivalent to three times the static weight of the articles supported; two "g" of loading and bending, acceleration, and torsion is equivalent to twice the static weight support applied horizontally at the road surface.

(b) "Hold-down" devices, when used, shall anchor the container to the cradle, frame or chassis in a suitable and safe manner that will not introduce undue concentration of stresses. These devices shall incorporate positive means for drawing the container down tight, and suitable stops or anchors shall be provided to prevent relative movement between container and framing due to stopping, starting or changes in direction.

(c) Vehicles designed and constructed so that the cargo tanks constitute in whole or in part the stress member used in lieu of the frame shall be supported by external cradles suspending at least 120° of the shell circumference. The design calculation shall include beam stress, shear stress, torsion stress, bending moment and acceleration stress, in addition to those covered by the code under which the cargo tank was designed.

(d) If a liquid withdrawal line is installed in the bottom of a container, the connections thereto, including hose, shall not be lower than the lowest horizontal edge of the trailer axle.

(e) Provisions shall be made to secure both ends of the hose while in transit.

(f) When the cradle and the container are not welded together, suitable material shall be used between them to eliminate metal-to-metal friction.

(3) Container appurtenances.

(a) Nonrecessed container fittings and appurtenances shall be protected against physical damage by either: (i) A protected location, (ii) the vehicle frame or bumper, or (iii) a protective housing. The protective housing, if used, shall comply with the requirements under which the containers are fabricated with respect to design and construction, and shall be designed to withstand static loadings in any direction

equal to twice the weight of the container and attachments when filled with the lading using a safety factor of not less than 4, based on the ultimate strength of the material to be used. The protective housing if used shall be protected with a weather cover, if necessary, to insure proper operation of valves and safety relief devices.

(b) All connections to containers, except filling connections (see WAC 296-24-51017 (3)(c)), safety relief devices, and liquid level and pressure gage connections, shall be provided with suitable automatic excess flow valves, or in lieu thereof, may be fitted with quick-closing internal valves, which shall remain closed except during delivery operations. The control mechanism for such valves may be provided with a secondary control remote from the delivery connections and such control mechanism shall be provided with a fusible section (melting point 208F to 220F) which will permit the internal valve to close automatically in case of fire.

(c) Filling connections shall be provided with automatic back-pressure check valves, excess-flow check valves, or quick-closing internal valves, to prevent back-flow in case the filling connection is broken. Where the filling and discharge connect to a common opening in the container shell and that opening is fitted with a quick-closing internal valve as specified in WAC 296-24-51017 (3)(b), the automatic valve shall not be required.

(d) All containers shall be equipped for spray loading (filling in the vapor space) or with an approved vapor return valve of adequate capacity.

(e) All containers shall be equipped with a fixed maximum liquid level gage.

(f) All containers shall be equipped with a pressure-indicating gage having a dial graduated from 0-400 psig.

(4) Piping and fittings.

(a) All piping, tubing and fittings shall be securely mounted and protected against physical damage.

(b) Piping used on nonrefrigerated systems shall be at least ASTM A-53 Grade B electric resistance welded and electric flash welded pipe or equal. Such pipe shall be at least Schedule 40 when joints are welded, or welded and flanged. Such pipe shall be at least Schedule 80 when joints are threaded. Brass, copper, or galvanized steel pipe or tubing shall not be used.

(c) The truck unloading line shall be provided with an excess flow valve at the hose connection unless an approved quick closing internal valve is provided in the container unloading connection. (See WAC 296-24-51017 (3)(b).)

(5) Safety relief devices. The discharge from container safety relief valves shall be vented away from the container upward and unobstructed to the open air in such a manner as to prevent any impingement of escaping gas upon the container; loose fitting rain caps shall be used. Size of discharge lines from safety relief valves shall not be smaller than the nominal size of the safety relief valve outlet connection. Suitable provision shall be made for draining condensate which may accumulate in the discharge pipe.

(6) Marking of container. Every container, whether loaded or empty, shall be conspicuously and legibly marked on each side and rear thereof on a background of sharply contrasting color with the words "COMPRESSED GAS" in letters at least four inches high; or with the words "ANHYDROUS

AMMONIA" in letters at least four inches high; or in compliance with department of transportation regulations.

(7) Transfer of liquids.

(a) The content of tank motor vehicle containers shall be determined by weight, by suitable liquid level gaging devices, meters, or other approved methods.

Note: If the content of a container is to be determined by liquid level measurement, the container shall have a thermometer well so that the internal liquid temperature can be easily determined. This volume when converted to weight shall not exceed the filling density specified by the department of transportation regulations.

(b) Pumps or compressors shall be designed and installed in accordance with WAC 296-24-51009(12) and protected against physical damage when mounted upon ammonia tank trucks and trailers.

(c) Tank motor vehicles of greater than 3500 water gallons capacity shall be unloaded only at approved locations meeting the requirements of WAC 296-24-51009 (10)(c) and (12)(h).

(8) ~~((Trailers and semi-trailers.~~

~~(a) Trailers shall be firmly and securely attached to the vehicle drawing them by means of suitable drawbars, supplemented by suitable safety chain (or chains) or safety cables.~~

~~(b) Every trailer and semi-trailer shall be equipped with an emergency braking system to be activated in the event of hitch failure.~~

~~(c) Trailers shall be of a type of construction which will prevent the towed vehicle from whipping or swerving dangerously from side to side and which will cause it to follow substantially in the path of the towing vehicle.~~

~~(d) Where a fifth wheel is employed on a semi-trailer, it shall be ruggedly designed, securely fastened to both units, and equipped with a positive locking mechanism which will prevent separation of the two units except by manual release.~~

~~(e) Every trailer or semi-trailer shall be provided with side lights and a tail light.~~

(9)) Electrical equipment and lighting. Tank trucks, tank trailers, and tank semi-trailers, may not be equipped with any artificial light other than electric light. Electric lighting circuits shall have suitable overcurrent protection (fuses or automatic circuit breakers). The wiring shall have sufficient carrying capacity and mechanical strength, and shall be suitably secured, insulated and protected against physical damage.

~~((10) Protection against collision. Each tank motor vehicle shall be provided with properly attached bumpers or chassis extensions arranged to protect the tank, piping, valves and fittings from physical damage in case of collision.~~

((11)) (9) Chock blocks. At least two chock blocks shall be provided. These blocks shall be placed to prevent rolling of the vehicle whenever it is parked during loading and unloading operations.

((12)) (10) Portable tanks (including skid tanks). When portable tanks are used in lieu of cargo tanks and are permanently mounted on tank motor vehicles for the transportation of ammonia, they shall comply with the requirements of WAC 296-24-51017. Where portable tanks, including those built to DOT Specification 51, 106A or 110A, are used for

farm storage they shall comply with WAC 296-24-51011. When portable tanks are used as shipping containers in interstate commerce they shall comply with WAC 296-24-51015.

((13)) (11) Safety equipment.

(a) All tank trucks, trailers, and semi-trailers should be equipped with the following for emergency and rescue purposes:

- (i) One full face gas mask with anhydrous ammonia refill canisters.
- (ii) One pair of protective gloves made of rubber or other material impervious to ammonia.
- (iii) Tight-fitting goggles or one full face shield.
- (iv) A container of not less than five gallons of readily available clean water.

\*An ammonia canister is effective for short periods of time in light concentrations of ammonia vapor, generally 15 minutes in concentrations of 3% and will not protect breathing in heavier concentrations. If ammonia vapors are detected when mask is applied the concentration is too high for safety. The life of a canister in service is controlled by the percentage of vapors to which it is exposed. Canisters must not be opened until ready for use and should be discarded after use. Unopened canisters may be guaranteed for as long as three years. All should be dated when received because of this limited life. In addition to this protection, an independently supplied air mask of the type used by fire departments may be used for severe emergencies.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 296-24-47515 LP-gas system installations on commercial vehicles.

**AMENDATORY SECTION** (Amending WSR 95-07-014, filed 3/6/95, effective 4/20/95)

**WAC 296-52-421 Licenses—Information verification.** (1) Any information request by the department, in order to verify statements in an application or in order to facilitate a department inquiry, shall be supplied prior to the issuance or renewal of a license. A Social Security number is required at the time of application (RCW 26.23.150).

(2) The director of labor and industries shall require, as a condition precedent to the original issuance or renewal of any explosive license, fingerprinting and criminal history record information checks of every applicant.

(a) In the case of a corporation, fingerprinting and criminal history record information checks shall be required for the management officials directly responsible for the operations where the explosives are used if such persons have not previously had their fingerprints recorded with the department of labor and industries.

(b) In the case of a partnership, fingerprinting and criminal history record information checks shall be required of all general partners.

(c) Such fingerprints as are required by the department of labor and industries shall be submitted on forms provided by the department to the identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may

search their records for prior convictions of the individuals fingerprinted.

(d) The Washington state patrol shall provide to the director of labor and industries such criminal record information as the director may request.

(e) The applicant shall give full cooperation to the department of labor and industries and shall assist the department of labor and industries in all aspects of fingerprinting and criminal history record information check.

(f) The applicant may be required to pay a fee not to exceed twenty dollars to the agency that performs the fingerprinting and criminal history process.

(3) The director of labor and industries shall not issue a license to manufacture, purchase, store, use, or deal with explosives to:

(a) Any persons under twenty-one years of age;

(b) Any person whose license is suspended or whose license has been revoked, except as provided in WAC 296-52-423;

(c) Any person who has been convicted in this state or elsewhere of a violent offense as defined in RCW 9.94A.030, perjury, false swearing, or bomb threats or a crime involving a schedule I or II controlled substance, or any other drug or alcohol related offenses, unless such other drug or alcohol related offense does not reflect a drug or alcohol dependency.

Exception: The director of labor and industries may issue a license if the person suffering a drug or alcohol related dependency is participating in or has completed an alcohol or drug recovery program acceptable to the department of labor and industries and has established control of their alcohol or drug dependency. The director of labor and industries shall require the applicant to provide proof of such participation and control.

(d) Any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease and who has not at the time of application been restored to competency.

(e) The department shall not issue or reissue an explosives license to any individual who is physically handicapped or diseased to an extent that he or she cannot safely pursue or continue all normal aspects of an explosives occupation. Disqualifying physical imparities may include but are not limited to examples such as blindness, deafness, or subject to epileptic or diabetic seizures or coma.

(f) A license holder of any unexpired license(s) shall surrender such license(s) to the department upon request for identified cause. Such surrender is subject to appeal to refute the contention of cause with verification of physical ability by a qualified physician.

Note: See also WAC 296-52-425 and 296-52-433.

**AMENDATORY SECTION** (Amending WSR 95-07-014, filed 3/6/95, effective 4/20/95)

**WAC 296-52-425 Dealer's license.** (RCW 70.74.130 and 70.74.230, apply.)

(1) The application for a dealer's license to buy explosives for the sole purpose of resale shall be made to Department of Labor and Industries, Olympia.

PERMANENT



(2) Original license applications and/or application for renewal shall be completed on forms available from the department and shall comply with all requirements of WAC 296-52-421. The license fee shall be ~~((thirty-seven)) twenty-five~~ dollars ~~((and shall increase to fifty dollars two years after the effective date of this section))~~.

(3) The license shall be renewed annually, no later than the expiration date.

(4) When an order for explosives is placed in person, by telephone, or in writing by a purchaser, the seller shall request proper authorization and identification from the purchaser and shall record the purchaser's license number.

(5) A dealer shall not distribute explosive materials to a company or individual on the order of a person who does not appear on the up to date list of representatives or agents and if the person does appear on the list, the dealer shall verify the identity of such person.

Exception: The above regulation(s) shall not apply to licensed common carrier companies when said common carrier is not purchasing the explosives but is merely transferring the materials from the seller to the purchaser and the transfer practices comply with current state and federal DOT regulations.

(6) Dealers records.

(a) A dealer's record of all explosives purchased and sold as defined in RCW 70.74.010, shall be kept on file and a copy transmitted not later than the tenth of every month to the department.

(b) The purchaser's name and license number shall be stated on dealer's record, and the name of the person authorized by the purchaser to physically receive the explosives.

(c) The dealer shall ascertain the identity of the individual who receives the explosives from a picture-type identification card, such as a driver's license. The recipient shall sign a receipt, documenting the explosives received and said receipt shall be retained by the dealer for not less than one year from the date of purchase.

(7) Any package, cask, or can containing any explosive, nitroglycerin, dynamite, or powder that is put up for sale, or is delivered to any warehouseman, dock, depot, or common carrier shall be properly labeled thereon to indicate its explosive classification.

(8) If the explosives are delivered by the dealer or dealer's authorized agent to an explosives magazine, the license number of said magazine and the legal signature of the recipient, properly authorized and identified, shall be obtained.

(9) No person shall sell, display, or expose for sale any explosive, improvised device or blasting agent on any highway, street, sidewalk, public way, or public place.

**AMENDATORY SECTION** (Amending WSR 95-07-014, filed 3/6/95, effective 4/20/95)

**WAC 296-52-429 License for manufacturing.** RCW 70.74.110 and 70.74.144, apply.

(1) No person, partnership, firm, company or corporation shall manufacture explosives or blasting agents or use any process involving explosives as a component part in the manufacture of any device, article or product without first obtain-

ing a manufacturer's license from the department of labor and industries.

(2) The application for license for manufacturing explosives and/or blasting agents shall be made to Department of Labor and Industries, Division of Consultation and Compliance, Olympia. The license fee for either an original license or a renewal shall be ~~((thirty-seven)) twenty-five~~ dollars ~~((and shall increase to fifty dollars two years after the effective date of this section))~~.

(3) The application for original license or renewal shall be completed on forms available from the department and shall provide the following information:

(a) Location of place of manufacture or processing;

(b) Kind of explosives manufactured, processed, or used;

(c) The distance that such explosives manufacturing building is located or intended to be located from the other factory buildings, magazines, inhabited buildings, railroads, highways, and public utility transmission systems;

(d) The name and address of the applicant;

(e) The reason for desiring to manufacture explosives;

(f) The applicant's citizenship, if the applicant is an individual;

(g) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(h) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof, and their citizenship; and

(i) Such other pertinent information as the director of labor and industries shall require to effectuate the purpose of this chapter.

(4) Each application for license shall be accompanied by a site plan of the proposed or existing manufacturing facilities. The plan shall show:

(a) The distance each manufacturing building is located from other buildings on the premises where people are employed, from other occupied buildings on adjoining property, from buildings where customers are served, from public highways and utility transmission systems.

(b) The site plan shall demonstrate compliance with all applicable requirements of chapter 70.74 RCW, the State Explosives Act as it exists at the time of this adoption or is hereafter amended; with applicable requirements of chapter 296-50 WAC, Safety standards—Manufacture of explosives; with the separation/location requirements of this chapter.

(c) The site plan shall identify and describe all natural or artificial barricades which are utilized to influence minimum permissible separation distances.

(d) The site plan shall identify the nature of and kind of work carried on in each building.

(e) The site plan shall specify the maximum amount and kind of explosives or blasting agents which will be permitted in each building or magazine at any one time.

(5) The application for license shall comply with all requirements of WAC 296-52-421.

(6) Upon receipt of a completed application meeting all requirements of this section, the department will schedule an inspection of the premises at the earliest time possible.

(7) The department will issue a license to the applicant(s) provided that:

(a) The required inspection confirms that the site plan is accurate and the facilities comply with applicable regulations of the department;

(b) The applicant(s) or operating superintendent and employees are sufficiently trained and experienced in the manufacture of explosives.

(8) A license to manufacture explosives and/or blasting agents shall be valid for not more than one year from the date of issue unless suspended or revoked by the department.

(9) A copy of the site plan and manufacturer's license shall be posted in the main office of each manufacturing plant.

(a) The site plan shall be maintained to reflect current status of manufacturing facilities, occupancy changes, etc.

(b) The department shall be notified when significant change occurs in the site plan. If the change is of such nature or magnitude as to make compliance with all requirements of this chapter questionable, the license holder shall consult with the department before changing the operations.

(10) Specific applicable requirements for the manufacture of explosives and blasting agents are codified and distributed in chapter 296-50 WAC, Safety standards—Manufacture of explosives.

**AMENDATORY SECTION** (Amending WSR 95-07-014, filed 3/6/95, effective 4/20/95)

**WAC 296-52-433 Purchaser's license.** RCW 70.74.135 and 70.74.137, apply.

(1) No person, firm, partnership, or corporation and including public agencies, shall be permitted to purchase explosives or blasting agents without a valid license as issued by the department of labor and industries.

(2) Applicants desiring to purchase explosives or blasting agents, except hand loader components as defined in this chapter, shall make application for license to the department of labor and industries. Application forms may be obtained at all department district offices, and from explosives dealers.

(3) Applicants shall comply with all requirements of WAC 296-52-421 and shall have a current user (blaster) license issued by the department. The purchaser's license fee shall be ~~((ten))~~ five dollars ~~((and shall increase to fifteen dollars two years after the effective date of this section))~~.

(4) Applicants shall be required to furnish at least the following information:

- (a) The location where explosives are to be used;
- (b) The kind and amount of explosives to be used;
- (c) The name and address of the applicant;
- (d) The reason for desiring to use explosives;
- (e) The citizenship of the applicant, if the applicant is an individual;

(f) If the applicant is a partnership, the names and addresses of the partners and their citizenship;

(g) If the applicant is an association or corporation, the names and addresses of the officers and directors thereof and their citizenship;

(h) Documented proof of ownership of a licensed storage magazine or a signed authorization to use another person's licensed magazine; or the purchaser shall sign a statement certifying that the explosives will not be stored.

(i) Such other pertinent information as the director of the department of labor and industries shall require to effectuate the purposes of this chapter.

(5) The department will grant a purchaser's license after all legal requirements have been fulfilled.

(6) The license is valid for one year from date of issuance.

(7) Purchaser shall, prior to ordering explosive materials, furnish the dealer a current list of the representatives or agents authorized to order explosive materials on their behalf showing the name, address, drivers license number or valid identification and date and place of birth. A copy of the list shall be submitted with the purchaser's application. The dealer and the department lists shall be updated as changes occur.

(8) The individual who physically receives the purchased explosives shall prove to the satisfaction of the dealer that he, personally, is the purchaser, or the person authorized by the purchaser to receive said purchased explosives. Such authorization procedure shall be approved by the department. Said receiver of explosives shall identify himself properly and shall sign the dealer's record with his legal signature.

**AMENDATORY SECTION** (Amending WSR 95-07-014, filed 3/6/95, effective 4/20/95)

**WAC 296-52-437 User's (blaster's) license.** RCW 70.74.020 and 70.74.142, apply.

(1) No person, firm, partnership, or corporation shall use, blast, or dispose of explosives and/or blasting agents unless in possession of a valid user's (blaster's) license issued by the department of labor and industries.

(2) The application for a user's (blaster's) license to use, blast or dispose explosives and blasting agents shall be made to Department of Labor and Industries, Division of Consultation and Compliance, Olympia.

(a) Application forms may be obtained at all department district offices, and from explosives dealers.

(b) The license is valid for one year from date of issuance. The license fee shall be ~~((ten))~~ five dollars ~~((and shall increase to fifteen dollars two years after the effective date of this section))~~.

(c) Applicants shall comply with all requirements of WAC 296-52-421.

(d) User (blaster) may be required to verify name of licensed purchaser, which will be confirmed and approved by the department.

(3) In addition to the submission of the application form, all new applicants, all applicants requesting change in classification of their license, and all applicants who have not renewed their user (blaster) license within sixty days of expiration will be required to submit a resume of successful blasting experience, properly witnessed, and to pass a written examination prepared and administered by the department.

(4) User (blaster) qualifications:

(a) A user (blaster) shall be able to understand and give written and oral orders.

(b) A user (blaster) shall be in good physical condition and not be addicted to narcotics, intoxicants, or similar types of drugs. This rule does not apply to persons taking prescrip-

tion drugs and/or narcotics as directed by a physician providing such use shall not endanger the worker or others.

(c) A user (blaster) shall be qualified by reason of training, knowledge, and experience, in the field of transporting, storing, handling, and use of explosives, and have a working knowledge of state and local laws and regulations which pertain to explosives.

(d) User (blaster) shall be required to furnish satisfactory evidence of competency in handling explosives and performing in a safe manner the type of blasting that will be required.

(e) The user (blaster) shall be knowledgeable and competent in the use of each type of blasting method used.

(5) The department will issue a user's license card which shall state the limitations imposed on the licensee and shall be presented by the user to authorized persons, upon request, together with valid personal identification.

(6) A "hand loader" as defined in this chapter, does not require a user's license.

**AMENDATORY SECTION** (Amending WSR 95-07-014, filed 3/6/95, effective 4/20/95)

**WAC 296-52-449 Storage magazine license fees.**  
RCW 70.74.140, applies.

The annual license fee for operating each magazine has been established by the department and shall be as shown in the following table:

Maximum weight (pounds) of explosives permitted in each magazine	Maximum number of blasting caps permitted in each magazine	Annual fee (dollars) for each magazine
200	133,000	<del>((20.00))</del> <u>10.00</u>
1,000	667,000	<del>((35.00))</del> <u>25.00</u>
5,000	3,335,000	<del>((50.00))</del> <u>35.00</u>
10,000	6,670,000	<del>((60.00))</del> <u>45.00</u>
50,000	33,350,000	<del>((75.00))</del> <u>60.00</u>
Max. 300,000	Max. 200,000,000	<del>((100.00))</del> <u>75.00</u>

Any permanent magazine licensed for two years shall pay twice the license fee shown.

**AMENDATORY SECTION** (Amending WSR 95-07-014, filed 3/6/95, effective 4/20/95)

**WAC 296-52-477 Quantity and distance table for separation between magazines.** Magazines containing blasting caps and electric blasting caps shall be separated from other magazines containing like contents, or from magazines containing explosives by distances in the following table.

TABLE H-21  
QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CONTAINING EXPLOSIVES

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines	
		Not Barricaded	Barricaded
2	5	12	6
5	10	16	8
10	20	20	10
20	30	22	11
30	40	24	12
40	50	28	14
50	75	30	15
75	100	32	16
100	125	36	18
125	150	38	19
150	200	42	21
200	250	46	23
250	300	48	24
300	400	54	27
400	500	58	29
500	600	62	31
600	700	64	32
700	800	66	33
800	900	70	35
900	1,000	72	36
1,000	1,200	78	39
1,200	1,400	82	41
1,400	1,600	86	43
1,600	1,800	88	44
1,800	2,000	90	45
2,000	2,500	98	49
2,500	3,000	104	52
3,000	4,000	116	58
4,000	5,000	122	61
5,000	6,000	130	65
6,000	7,000	136	68
7,000	8,000	144	72
8,000	9,000	150	75
9,000	10,000	156	78
10,000	12,000	164	82
12,000	14,000	174	87
14,000	16,000	180	90
16,000	18,000	188	94
18,000	20,000	196	98
20,000	25,000	210	105
25,000	30,000	224	112
30,000	35,000	238	119
35,000	40,000	248	124
40,000	45,000	258	129
45,000	50,000	270	135
50,000	55,000	280	140
55,000	60,000	290	145
60,000	65,000	300	150

PERMANENT

TABLE H-21  
 QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN  
 MAGAZINES CONTAINING EXPLOSIVES

Pounds Over	Pounds Not Over	Separation Distance in Feet Between Magazines	
		Not Barricaded	Barricaded
65,000	70,000	310	155
70,000	75,000	320	160
75,000	80,000	330	165
80,000	85,000	340	170
85,000	90,000	350	175
90,000	95,000	360	180
95,000	100,000	370	185
100,000	110,000	380	195
110,000	120,000	410	205
120,000	130,000	430	215
130,000	140,000	450	225
140,000	150,000	470	235
150,000	160,000	490	245
160,000	170,000	510	255
170,000	180,000	530	265
180,000	190,000	550	275
190,000	200,000	570	285
200,000	210,000	590	295
210,000	230,000	630	315
230,000	250,000	670	335
250,000	275,000	720	360
275,000	300,000	770	385

- Note 1. The term "natural barricade" is defined in WAC 296-52-417.
- Note 2. Efficient artificial barricade is defined in WAC 296-52-417.
- Note 3. "Barricaded" means that a building containing explosives is effectually screened from a magazine, building, railway, or highway, either by a natural barricade, or by an artificial barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine, or building, or to a point 12 feet above the center of a railway or highway, will pass through such intervening natural or artificial barricade.
- Note 4. This table applies only to the ((~~manufacture and~~)) permanent storage of commercial explosives. It is not applicable to transportation of explosives, or any handling or temporary storage necessary or incident thereto. It is not intended to apply to bombs, projectiles, or other heavily encased explosives.

**AMENDATORY SECTION** (Amending WSR 98-19-056, filed 9/15/98, effective 11/8/98)

**WAC 296-52-489 Transportation.** (1) Regulations governing the transportation of explosives on public highways are adopted by the United States Department of Transportation (see 49 CFR Parts 100 through 199) and the Washington utilities and transportation commission and administered by the Washington state patrol.

(2) The regulations of this section shall be applicable in-and-on job sites and off-highway roads. The department of labor and industries shall administer these regulations in

locations such as but not limited to: Construction or mining access roads and blast sites; off-highway forest roads including both publicly and privately owned logging roads, haul roads or general access roads.

Note: Examples of publicly owned off-highway roads where these regulations are applicable shall include, but are not limited to: U.S. Forest Service roads, Bureau of Land Management roads, state department of natural resources roads, but specifically not including the state or interstate highway system.

(a) No person shall be allowed to smoke, carry matches or any other flame-producing device, except guards or commissioned law enforcement officers, to carry any firearms or loaded cartridges while in or near a motor vehicle transporting explosives; or drive, load, or unload such vehicle in a careless or reckless manner.

(b) Explosives shall not be carried on any vehicle while vehicle is being used to transport workers other than driver and two persons.

(c) Explosives shall be transferred from a disabled vehicle to another, only when proper and qualified supervision is provided. Local fire and police departments shall be promptly notified in congested areas. In remote areas they shall be notified if appropriate.

(d) Other materials or supplies shall not be placed on or in the cargo space of a conveyance containing explosives, detonating cord or detonators, except carrying safety fuse, and properly secured, nonsparking equipment used expressly in the handling of such explosives will be permissible.

(3) Transportation vehicles.

(a) All vehicles used for transporting explosives shall be strong enough to carry the load without difficulty and be in good mechanical condition. The cargo compartment(s) shall have a tight floor and must not have any exposed spark producing metal on the inside which could come into contact with explosives cargo.

(b) Explosives vehicles used on any roadway which is open to public travel shall comply with WAC 296-52-550, Appendix II.

(c) Open top explosives transportation vehicles may only be used on the jobsite or on roads which are not open to public travel (while laden with explosives). In open top vehicles or trailers, explosives may only be transported in the original DOT approved shipping container(s)/box(es) or a daybox or portable magazine which complies with the requirements of this chapter. In all instances the explosive container(s), box(es), daybox or portable magazine shall be secured to the bed of the vehicle or trailer.

(i) If an explosives transportation vehicle or trailer does not have a fully enclosed cargo area with nonsparking interior, the cargo bed and all explosive cargo shall be covered with a flameproof and moisture-proof tarpaulin or other effective protection against moisture and sparks. Whenever tarpaulins are used for covering explosives, both the tarpaulin and the explosives container shall be secured to the body of the truck bed by means of rope, wire, or other equally efficient tie downs.

(ii) Packages of explosives shall not be loaded above the sides on open-sided vehicles.

PERMANENT

(4) Vehicles shall be placarded and displayed as specified by the United States Department of Transportation, CFR 49-1981, Parts 100 through 199. Placards shall remain on the vehicle until all explosives have been removed from the vehicle.

(5)(a) Each motor vehicle used for transporting explosives shall be equipped with a minimum of two extinguishers, each having a rating of at least 2A 10BC. The driver shall be trained in the use of the extinguishers on the vehicle.

(i) Only extinguishers listed or approved by a nationally recognized testing laboratory shall be deemed suitable for use on explosives-carrying vehicles. Refer to WAC 296-24-58501(19) for definition of listed, and federal regulation 29 CFR 1910.7 for nationally recognized testing laboratory.

(ii) Extinguishers shall be filled and ready for immediate use and readily available. Extinguishers shall be examined periodically by a competent person.

(b) A motor vehicle used for transporting explosives shall be given the following inspection to determine that it is in proper condition for safe transportation of explosives:

(i) Fire extinguishers shall be filled and in working order.

(ii) All electrical wiring shall be completely protected and securely fastened to prevent short-circuiting.

(iii) Chassis, motor, pan, and underside of body shall be reasonably clean and free of excess oil and grease.

(iv) Fuel tank and feedline shall be secure and have no leaks.

(v) Brakes, lights, horn, windshield wipers, and steering apparatus shall function properly.

(vi) Tires shall be checked for proper inflation and defects.

(vii) The vehicle shall be in proper condition in every other respect and acceptable for handling explosives.

(c) Motor vehicles or conveyances carrying explosives, blasting agents, or blasting supplies, shall not be taken inside a garage or shop for repairs or servicing.

(6) Operation of transportation vehicles.

(a) Vehicles transporting explosives shall only be driven by and be in the charge of a licensed driver who is not less than twenty-one years of age, physically fit, careful, capable, reliable, able to read and write the English language, and not addicted to the use, or under the influence of intoxicants, narcotics, or other dangerous drugs. This rule does not apply to persons taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the worker or others. They shall be familiar with the traffic regulations, state laws, and the provisions of this section.

(i) Explosives may only be transported by a licensed manufacturer, blaster, purchaser or seller, or the designated agent or representative thereof, or a contract carrier for hire who complies with all requirements for transportation of hazardous materials.

(ii) The person in control of the explosive laden vehicle shall be made aware of the nature of the cargo and pertinent safety precautions relating to the particular explosive(s) being transported.

(b) Parking. A motor vehicle which contains Class A or Class B explosives must not be parked under any of the following circumstances:

(i) On or within 5 feet of the traveled portion of a public street or highway;

(ii) On private property (including premises of a fueling or eating facility) without the knowledge and consent of the person who is in charge of the property and who is aware of the nature of the hazardous materials the vehicle contains; or

(iii) Within 300 feet of a bridge, tunnel, dwelling, building, or place where people work, congregate, or assemble, except for brief periods when the necessities of operation require the vehicle to be parked and make it impracticable to park the vehicle in any other place.

(c) Every motor vehicle transporting any quantity of Class A or Class B explosives shall, at all times, be attended by a driver or other attendant of the motor carrier. This attendant shall have been made aware of the class of the explosive material in the vehicle and of its inherent dangers, and shall have been instructed in the measures and procedures to be followed in order to protect the public from those dangers. The attendant shall have been made familiar with the vehicle to which assigned, and shall be trained, supplied with the necessary means, and authorized to move the vehicle when required.

(i) For the purpose of this subdivision, a motor vehicle shall be deemed "attended" only when the driver or other attendant is physically on or in the vehicle, or has the vehicle within the driver or attendants field of vision and can reach it quickly and without any kind of interference; "attended" also means that the driver or attendant is awake, alert, and not engaged in other duties or activities which may divert their attention from the vehicle.

(ii) An explosive laden vehicle may be left unattended for a period not to exceed 48 hours provided that:

(A) The vehicle is parked in a designated parking lot which complies with NFPA Std. 498 and with the appropriate clearance table of this chapter for the type and quantity of explosives carried;

(B) The designated parking lot is correctly bermed and walled or fenced and gated to prevent unauthorized entry;

(C) The designated lot is inspected and approved by the department of labor and industries and is provided with a full-time security patrol at all times when explosives are present;

(D) Trucks used for explosives delivery which contain only blasting agents (International Class 1.5 D) and no high explosives need not be attended provided the vehicle is locked to prevent movement of the vehicle, the cargo compartments are locked to prevent theft, the vehicle is parked according to all applicable storage distance requirements, and the vehicle is located in a secured area which restricts entry to the area by unauthorized personnel.

(d) No spark-producing metal, spark-producing tools, oils, matches, firearms, electric storage batteries, flammable substances, acids, oxidizing materials, or corrosive compounds shall be carried in the body of any motor truck and/or vehicle transporting explosives, unless the loading of such dangerous articles and the explosives comply with U.S. Department of Transportation regulations.

(e) Vehicles transporting explosives shall avoid congested areas and heavy traffic.

(f) Delivery and issue of explosives shall only be made by and to authorized persons and into authorized magazines or authorized temporary storage or handling area.

(7) Transporting blasting caps and explosives in the same vehicle.

(a) Fuse type blasting caps, blasting caps with safety fuse and/or blasting caps with metal clad mild detonating fuse shall not be transported ~~((H))~~ over the highways on the same vehicle or trailer with other explosives, unless packaged, segregated, and transported in accordance with the department of transportation's hazardous materials regulations.

(b) Blasting caps rated by U.S. DOT as nonmass detonating may be transported in the same vehicle or trailer with other explosives when:

(i) The caps are carried in DOT approved shipping containers:

(ii) The truck or trailer complies with Appendix 1, WAC 296-52-550.

(8) When primers are made up at a central primer house for use in high speed tunneling, the following shall apply:

(a) Only enough primers shall be made up for each round of blasting.

(b) The primers shall be placed in separate containers or bins, categorized by degree of delay in such a manner so as to prevent them from physical impact.

(c) Explosives carried in the same magazine shall be separated by 1/4-inch steel, covered on each side by four inches of hardwood planking, or equivalent.

(d) Hoist operators shall be notified before explosives or blasting agents are transported in a shaft conveyance.

(e) Explosives and blasting agents shall be hoisted, lowered, or conveyed in a powder car. No other materials, supplies, or equipment shall be transported in the same conveyance at the same time.

(f) Only a state approved powder car or conveyance shall be used underground.

(g) All explosives or blasting agents in transit underground shall be taken to the place of use or storage without delay.

(h) The quantity of explosives or blasting agents taken to an underground loading area shall not exceed the amount estimated to be necessary for the blast.

(i) The number of primers for one round will be removed from the state approved car or vehicle at the face or heading after the drilling has been completed and the holes readied for loading. After loading the charge, the powder car or vehicle will be withdrawn from the tunnel.

(j) Wires on electric caps shall be kept shunted until wired to the bus wires.

(k) The powder car or conveyance shall be inspected daily for lights, brakes and external damage to electrical circuitry. The electrical system shall be checked weekly to detect any failures that may constitute an electrical hazard and a written certification record of such inspection shall be kept on file for the duration of the job. The certification record shall contain the date of inspection, the serial number or other positive identification of the unit being inspected and the signature of the person performing the inspection.

(l) The installation of auxiliary lights on truck beds, which are powered by the truck's electrical system, shall be prohibited.

(m) No one, except the operator, the helper, and/or the powderperson, shall be permitted to ride on a conveyance transporting explosives and blasting agents.

(n) No person shall ride in any shaft conveyance transporting explosives and blasting agents.

(o) No explosives or blasting agents shall be transported on a crew-haul trip.

(p) The car or conveyance containing explosives or blasting agents shall be pulled, not pushed, whenever possible.

(q) The powder car or conveyance especially built for the purpose of transporting explosives or blasting agents shall bear a reflectorized sign on each side with the word "explosives" in letters not less than 4 inches in height; upon a background of sharply contrasting color.

(r) Compartments for transporting detonators and explosives in the same car or conveyance shall be physically separated by a distance of 24 inches or by a solid partition at least 6 inches thick.

(s) Detonators and other explosives shall not be transported at the same time in any shaft conveyance.

(t) Explosives and/or blasting agents, not in original containers, shall be placed in a suitable container when transported manually.

(u) No explosives or blasting agents shall be transported on any locomotive. At least two car lengths shall separate the locomotive from the powder car.

(9) When explosives are carried to the blasting site from the main storage magazines by the blaster or helper:

(a) Special insulated containers or original DOT shipping containers shall be used for this purpose, either boxes or bags, one container for explosives and one for detonators.

(b) Detonators or explosives shall never be carried in pockets of clothing.

**AMENDATORY SECTION** (Amending WSR 95-07-014, filed 3/6/95, effective 4/20/95)

**WAC 296-52-493 Use of explosives and blasting agents.** (1) General provisions.

(a) While explosives are being handled or used, smoking, matches, or any other source of fire or flame shall not be allowed within 100 feet of the blast site. No person shall be allowed to handle explosives while under the influence of intoxicating liquors, narcotics, or other dangerous drugs. This rule does not apply to persons taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the worker or others.

(b) Original containers or day box magazines shall be used for taking detonators and other explosives from storage magazines to the blast site.

(c) When blasting is done in congested areas or in close proximity to a structure, railway, or highway or any other installation that may be damaged, the blast shall be covered before firing with a mat or other suitable protective material that is capable of preventing fragments from being thrown.

(d) Persons authorized to prepare explosive charges or conduct blasting operations shall use every reasonable precaution, including but not limited to warning signals, flags and barricades or blasting mats to insure the safety of the general public and workers.

(e) Blasting operations shall be conducted during daylight hours whenever possible.

(f) Whenever blasting is being conducted in the vicinity of gas, electric, water, fire alarm, telephone, telegraph, and steam utilities, the user (blaster) shall notify the appropriate representatives of such utilities at least twenty-four hours in advance of blasting, specifying the location and intended time of such blasting. Verbal notice shall be confirmed with written notice. The blaster shall ensure that appropriate measures for safe control have been taken.

(g) Due precaution shall be taken to prevent unintended discharge of blasting caps from extraneous electric current or from transmitted radio frequency (RF) energy. Examples:

Common sources of extraneous electricity include but are not limited to adjacent powerlines, dust storms and lightning storms.

Common sources of hazardous RF transmissions include but are not limited to: (MOBILE) citizen band (CB) or side band radio transmitters, VHF (FM) radio transmitters, UHF cellular telephones and radar transmitters. (FIXED LOCATION TRANSMITTERS) base stations for CB, side band or FM radio communications, UHF cellular telephone transmitters and service extension repeater systems, AM and FM (commercial) radio broadcast transmitters, TV broadcast transmitters and repeater system transmitters, surface scan and radio navigation beacons.

(h) Low flying aircraft and in particular military aircraft create the most common serious RF exposures. These highly unpredictable mobile transmitters are very powerful and transmit on a broad spectrum of frequencies including radar, laser and all common communications bands. Probably the two most dangerous examples are low flying automatic terrain following guidance systems and airplanes which are equipped to jam all common radar and communications frequencies for a distance of several miles around the airborne transmitters.

(i) Precautions to prevent unintended discharge of electric blasting caps from extraneous electric currents or RF transmission shall include:

(i) Positive identification of voltages in electrical transmission and distribution lines and specific required clearance for each specific system; and

(ii) Complete suspension of all blasting operations and removal of all personnel from the blast site during the approach and progress of heavy dust storms which may create static lightening or conventional thunder and lightening storms; and

(iii) The posting of signs warning against the use of radio frequency transmitters including CBs, mobile phones and two-way radios. The required signs shall be placed in a manner to adequately warn transmitter users, including all routes into the required clearance zone around where electric blasting caps are used.

(A) The required clearance zone for construction and/or demolition operations shall be 1000 feet;

(B) The required clearance zone for general industry operations which are not subject to construction requirements shall be 350 feet.

Note: See Appendix II, WAC 296-52-552 for illustrations and specific posting requirements.

(iv) Ensuring that mobile RF transmitters which are less than 100 feet away from electrical blasting caps are deenergized or disconnected when the caps are not fully contained in the original DOT shipping containers; and

(v) Fixed location RF transmitters represent a higher level of hazard to both storage and/or blasting operations involving electric caps because the transmitters are more powerful and transmit dangerous levels of RF exposure over much greater distances. Storage or blasting operations with electric caps shall only be carried out in full compliance with the appropriate recommended distance tables published in *INSTITUTE OF MAKERS OF EXPLOSIVES (I.M.E.) Publication No. 20, 1988, "SAFETY GUIDE FOR THE PREVENTION OF RADIO FREQUENCY HAZARDS IN THE USE OF COMMERCIAL ELECTRIC DETONATORS (Blasting Caps)"*; and

(vi) When necessary to conduct blasting operations within the required separation distances specified in I.M.E. Pamphlet 20-1988, the storage and use of electric blasting caps shall be prohibited on the site and only detonating cord, safety fuse, shock tube or other approved nonelectric systems may be used.

(j) No fire shall be fought where the fire is in imminent danger of contact with explosives. All employees shall be removed to a safe area and the fire area guarded against intruders.

(k) Electric detonators shall be shunted until wired into the blasting circuit.

(l) Explosives shall not be handled near open flames, uncontrolled sparks or energized electric circuits.

(m) Delivery and issue of explosives shall only be made by and to authorized persons and into authorized magazines or approved temporary storage or handling area.

(n) Blaster in charge.

(i) The blast site shall be under the control of a fully qualified and currently licensed "blaster in charge" throughout the course of every blasting operation. That obligation shall commence with a site survey to determine potential safety conflicts with: Public utility transmission systems, dwellings or other occupied buildings, roads or railroads, radio frequency transmitters, preexisting explosives storage magazines.

(ii) Whenever the site survey identifies conditions which conflict with safe blasting operations, the blaster in charge shall prepare a written site blasting plan before beginning blasting operations. The written plan shall identify the methods, materials, procedures and/or engineering calculations which will be used to address each identified conflicting condition.

Note 1. When the site survey identifies that no conflicting conditions exist, a written blasting plan is not required.

Note 2. Written blasting plans may be discarded at the end of a job provided that no blasting incident has occurred which resulted in bodily injury or property damage.

(iii) All on-site transportation, storage, loading and firing of explosives shall be supervised by the blaster in charge. Trainees and inexperienced personnel shall work only under direct supervision of licensed personnel fully qualified in the blasting method in use, including safety procedures and blasting signals in use at that site.

(iv) The site blasting plan shall include designated safe location(s) for personnel during actual blasting and a method for determining when all personnel are accounted for in the designated safe location(s).

Note: It is desirable that all potential means of egress into the blast site should be under observation immediately prior to each blast. The observer(s) should be provided with a means of communication with the blaster in charge.

(o) The employer shall permit only competent and authorized personnel to handle explosives.

(p) No explosive shall be loaded or used underground in the presence of combustible gases or combustible dusts unless approved as permissible by MSHA.

(q) In either electric or nonelectric blasting, the firing line(s) shall not be connected to the blast initiating device until all personnel have been accounted for and removed from the blast danger area or are in a blast shelter or other location which affords adequate protection.

(2) Storage at use sites.

(a) Empty boxes and paper and fiber packing materials which have previously contained ((high)) explosive((s)) materials shall ((not be used again for any purpose, but shall be destroyed by burning at the blast site or at an approved isolated location out of doors, and no person shall be nearer than 100 feet after the burning has started)) be disposed of in a safe manner, or reused in accordance with the department of transportation's hazardous materials regulations.

(b) When opening kegs or wooden cases, no sparking metal tools shall be used; wooden wedges and either wood, fiber or rubber mallets shall be used. Nonsparking metallic slitters may be used for opening fiberboard cases.

(c) Should cartridges or packages of explosives show signs of deterioration, the manufacturer or the department shall be notified. Such explosives must be carefully set aside and properly disposed of.

(3) Loading of explosives or blasting agents in blast holes.

(a) Procedures that permit safe and efficient loading shall be established before loading is started.

(b) All drill holes shall be sufficiently large to admit freely the insertion of the cartridges of explosives. Holes shall be checked prior to loading to determine depth and conditions.

(c) Tamping shall be done only with wood rods or with approved plastic tamping poles without exposed metal parts, but nonsparking metal connectors may be used for jointed poles. Violent tamping shall be avoided. The primer shall never be tamped.

(d) No holes shall be loaded except those to be fired in the next round of blasting. After loading, all remaining explosives and detonators shall be immediately returned to an authorized magazine or day box.

(e) Drilling shall not be started until all remaining butts of old holes are examined for unexploded charges, and if any are found, they shall be refired before work proceeds.

(f) When a charge of explosives has been exploded in a bore hole to enlarge or "spring" it, an interval of at least two hours must be allowed to pass before an additional charge of explosives can be loaded into the hole.

Note: There may be an exception made to this rule provided the sprung hole is thoroughly wet down with water before it is loaded.

(g) No person shall be allowed to deepen drill holes which have contained explosives or blasting agents.

(h) No explosives or blasting agents shall be left unattended at blast sites unless stored in a licensed magazine.

(i) Users (blasters) shall not load, store or use explosives closer than the length of the steel being used for drilling and in no event nearer than fifty feet of drilling operations.

(j) Machines and all tools not used for loading explosives into bore holes shall be removed from the immediate location of holes being loaded with explosives. Equipment shall not be operated within 50 feet of loaded holes except when equipment is needed to add burden, mats or tracking of drills out of the loading area.

(k) Powerlines and portable electric cables for equipment being used shall be kept a safe distance from explosives or blasting agents being loaded into drill holes. Cables in the proximity of the blast area shall be deenergized and locked out by the blaster.

(l) Holes shall not be drilled where there is danger of intersecting a charged or misfired hole.

(m) All blast holes in open work shall be stemmed to the collar or to a point which will confine the charge.

(n) No explosives for underground operations other than those in Fume Class 1, as set forth by the Institute of Makers of Explosives, shall be used; however, explosives complying with the requirements of Fume Class 2 and Fume Class 3 may be used if adequate ventilation has been provided.

(o) Warning signs, indicating a blast area, shall be maintained at all approaches to the blast area. The warning sign lettering shall not be less than 4 inches in height on a contrasting background. All loaded stumps must be marked for identification on logging sites.

(p) A bore hole shall never be sprung when it is adjacent to or near a hole which has been loaded. Flashlight batteries shall not be used as a power source (blasting machine) for springing holes.

(q) No loaded holes shall be left unattended or unprotected.

(r) The user (blaster) shall keep an accurate, up-to-date record of explosives, blasting agents, and blasting supplies used in a blast and shall keep an accurate running inventory of all explosives and blasting agents stored on the operation.

(s) When loading blasting agents pneumatically over primed boosters, semiconductive delivery hose shall be used and the equipment shall be bonded and grounded.

(4) Initiation of explosive charges - electric blasting.

(a) Blasting cap leg wires shall be kept short-circuited (shunted) until they are connected into the circuit for firing.



(b) Before adopting any system of electrical firing, the user (blaster) shall conduct a thorough survey for extraneous currents, and all dangerous currents shall be eliminated before any holes are loaded.

(c) In any single blast using electric blasting caps, all caps shall be of the same style or function and be of the same manufacture and compatible with each other.

(d) Electric blasting shall be carried out by using blasting circuits or power circuits in accordance with the electric blasting cap manufacturer's recommendations.

(e) The firing line shall be checked with an approved testing device at the terminals before being connected to the blasting machine or other power source.

(f) The circuit including all caps shall be tested with an approved testing device before being connected to the firing line.

(g) When firing a circuit of electric blasting caps, care shall be exercised to ensure that an adequate quantity of delivered current is available, in accordance with the manufacturer's recommendations.

(h) Connecting wires and lead wires shall be insulated single solid wires of sufficient current-carrying capacity, and shall not be less than twenty gauge (American wire gauge) solid core insulated wire.

(i) Firing line or lead wires shall be solid single wires of sufficient current-carrying capacity, and shall be not less than fourteen gauge (American wire gauge) solid core insulated wire. Bus wires - depends on the size of the blast, fourteen gauge (American wire gauge) copper is recommended.

(j) The ends of lead wires which are to be connected to a firing device shall be shorted by twisting them together or otherwise shunting them before they are connected to the leg wires or connecting wires, and they shall be kept in the control of the person who is doing the loading until loading is completed and the leg wires attached. Lead wires shall not be attached to the firing device until the blaster is ready to fire the shot and must be attached by the user (blaster) themselves.

(k) The ends of the leg wires on electric detonators shall be shorted in a similar manner and not separated other than for testing until all holes are loaded and the loader is ready to connect the leg wires to the connecting wires or lead wires.

(l) When firing electrically, the insulation on all firing lines shall be adequate and in good condition.

(m) A power circuit used for firing electric blasting caps shall not be grounded.

(n) In underground operations when firing from a power circuit, a safety switch shall be placed at intervals in the permanent firing line. This switch shall be made so it can be locked only in the "off" position and shall be provided with a short-circuiting arrangement of the firing lines to the cap circuit.

(o) In underground operations there shall be a "lightning" gap of at least 5 feet in the firing system ahead of the main firing switch; that is, between this switch and the source of power. This gap shall be bridged by a flexible jumper cord just before firing the blast.

(p) When firing from a power circuit, the firing switch shall be locked in the open or "off" position at all times, except when firing. It shall be so designed that the firing lines

to the cap circuit are automatically short-circuited when the switch is in the "off" position. Keys to this switch shall be entrusted only to the user (blaster).

(q) Blasting machines shall be in good condition and the efficiency of the machine shall be tested periodically to make certain that it can deliver power at its rated capacity.

(r) When firing with blasting machines, the connections shall be made as recommended by the manufacturer of the electric blasting caps used.

(s) The number of electric blasting caps connected to a blasting machine shall not be in excess of its rated capacity. Furthermore, in primary blasting, a series circuit shall contain no more caps than the limits recommended by the manufacturer of the electric blasting caps in use.

(t) The blaster in charge shall be in charge of the blasting machines, and no other person shall connect the lead wires to the machine.

(u) Users (blasters), when testing circuits to charged holes, shall use only blasting testers especially designed for this purpose.

(v) Whenever the possibility exists that a lead line or blasting wire might be thrown over live overhead powerlines, communication lines, utility services, or other services or structures by the force of an explosion, care shall be taken to see that the total length of wires are kept too short to hit the lines, that the wires are securely anchored to the ground and owners or operators are notified. If those requirements can not be satisfied, a nonelectric system shall be used.

(w) In electrical firing, only the person making lead wire connections shall fire the shot. All connections shall be made from the bore hole back to the source of firing current, and the lead wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(x) After firing an electric blast from a blasting machine, the leading wires shall be immediately disconnected from the machine and short-circuited.

(y) When electric blasting caps have been used, workers shall not return to misfired holes for at least thirty minutes.

(5) Use of safety fuse.

(a) A fuse that is deteriorated or damaged in any way shall not be used.

(b) The hanging of fuse on nails or other projections which will cause a sharp bend to be formed in the fuse is prohibited.

(c) Before capping safety fuse, a short length shall be cut from the end of the supply reel so as to assure a fresh cut end in each blasting cap.

(d) Only a cap crimper of approved design shall be used for attaching blasting caps to safety fuse. Crimpers shall be kept in good repair and accessible for use.

(e) No unused cap or short capped fuse shall be placed in any hole to be blasted; such unused detonators shall be removed from the working place and disposed of or stored in licensed magazine.

(f) No fuse shall be capped, or primers made up, in any magazine or near any possible source of ignition.

(g) Capping of fuse and making of primers shall only be done in a place selected for this purpose and at least one hundred feet distant from any storage magazine.

(h) Fuse must be cut long enough to reach beyond the collar of the bore hole and in no case less than three feet. When shooting choker holes, not less than three feet of fuse shall be used.

(i) At least two persons shall be present when multiple cap and fuse blasting is done by hand lighting methods.

(j) Not more than 12 fuses shall be lighted by each blaster when hand lighting devices are used. However, when two or more safety fuses in a group are lighted as one by means of igniter cord, or other similar fuse-lighting devices, they may be considered as one fuse.

(k) The so-called "drop fuse" method of dropping or pushing a primer or any explosive with a lighted fuse attached is prohibited.

(l) Cap and fuse shall not be used for firing mudcap charges unless charges are separated sufficiently to prevent one charge from dislodging other shots in the blast.

(m) When blasting with safety fuses, consideration shall be given to the length and burning rate of the fuse. Sufficient time, with a margin of safety, shall always be provided for the blaster to reach a place of safety.

(n) The burning rate of the safety fuse in use at any time shall be measured, posted in conspicuous locations, and brought to the attention of all workers concerned with blasting. No fuse shall be used that burns faster than one foot in forty seconds or slower than one foot in fifty-five seconds.

(o) For use in wet places the joint between the cap and fuse shall be waterproofed with a compound prepared for this purpose.

(p) In making up primers only nonsparking skewers shall be used for punching the hole in the cartridge to insert the capped fuse. No blasting cap shall be inserted in the explosives without first making a hole in the cartridge of proper size or using a standard cap crimper.

(q) Only sufficient primers for one day's use shall be made up at one time. They shall be stored in a box type magazine in which no other explosives are stored.

(r) Any loose cartridges of explosives, detonators, primers and capped fuse unused at the end of the shift shall be returned to their respective magazines and locked up.

(s) Safety fuse and caps shall only be used for conventional blasting where:

(i) Extraneous electricity or radio frequency transmissions make the use of electric cap and wire systems dangerous;

(ii) Overhead electric transmission lines cannot be deenergized and there is danger that blasting wires may be thrown into the overhead lines during a blast;

(iii) For avalanche control hand charges;

(iv) For specialized applications where cap and fuse is more suitable than electric or other nonelectric initiation systems.

(6) Use of detonating cord.

(a) Care shall be taken to select a detonating cord consistent with the type and physical condition of the bore hole and stemming and the type of explosives used.

(b) Detonating cord shall be handled and used with the same respect and care given other explosives.

(c) For quantity and distance purposes detonating fuse up to 60 grains per foot should be calculated as equivalent to 9

lbs. of high explosives per 1,000 feet. Heavier cord loads should be rated proportionately.

(d) Trunk lines in multiple-row blasts shall make one or more complete loops, with crossies between loops at intervals of not over two hundred feet.

(e) All detonating cord knots shall be tight and all connections shall be kept at right angles to the trunk lines.

(f) The line of detonating cord extending out of a bore hole or from a charge shall be cut from the supply spool before loading the remainder of the bore hole or placing additional charges.

(g) Detonating cord shall be handled and used with care to avoid damaging or severing the cord during and after loading and hooking-up.

(h) Detonating cord connections shall be competent and positive in accordance with approved and recommended methods. Knot-type or other cord-to-cord connections shall be made only with detonating cord in which the explosive core is dry.

(i) All detonating cord trunklines and branchlines shall be free of loops, sharp kinks, or angles that direct the cord back toward the oncoming line of detonation.

(j) All detonating cord connections shall be inspected before firing the blast.

(k) When detonating cord millisecond-delay connectors or short-interval-delay electric blasting caps are used with detonating cord, the practice shall conform strictly to the manufacturer's recommendations.

(l) When connecting a blasting cap or an electric blasting cap to detonating cord, the cap shall be taped or otherwise attached securely along the side or the end of the detonating cord, with the end of the cap containing the explosive charge pointed in the direction in which the detonation is to proceed.

(m) Detonators for firing the trunkline shall not be brought to the loading area nor attached to the detonating cord until everything else is in readiness for the blast.

(7) Initiation of explosive charges - nonelectric blasting.

(a) All nonelectric initiation systems and components of these systems shall be used in accordance with their manufacturer's recommendations and instructions.

(b) All members of the blasting crew shall be instructed in the safe use of the initiation system and its components. It shall be the duty of the blaster in charge to provide adequate on-the-job training and supervision in the safe use of such systems.

(c) When a nonelectric shock tube initiation system is used, the tubing shall be free of all knots and tight kinks. The shock tube shall be free of cuts or abrasions that could expose the core to moisture.

(d) All blasting operations shall cease during the approach and progress of a thunderstorm, regardless of the type of initiation system used, and all personnel shall withdraw to a place of safety.

(e) When an explosive bulk truck or other vehicle is operated on a blast site, care shall be taken to ensure that the vehicle does not tread on the tubing, connectors, or any surface delay component. If a vehicle operated on a blast site must pass over loaded blastholes, precautions shall be made to consolidate these elements at the collar of the hole to prevent vehicle contact.

(f) Before firing the shot, the blaster in charge shall make a visual inspection to ensure that the initiation system is hooked up in accordance with the manufacturer's recommendations.

(8) Firing the blast.

(a) A code of blasting signals equivalent to Table T-1 shall be posted on one or more conspicuous places at the operation, and all employees shall be required to familiarize themselves with the code and conform to it. Warning signs shall be placed at suitable locations.

(b) All charges shall be covered with blasting mats or other protective material before firing, where blasting may cause injury or damage by flying rock or debris.

(c) Before a blast is fired, a loud warning signal shall be given by the blaster in charge, who has made certain that all surplus explosives are in a safe place and all employees, vehicles, and equipment are at a safe distance, or under sufficient cover.

(d) Flaggers shall be safely stationed on highways which pass through the danger zone so as to stop traffic during blasting operations.

(e) It shall be the duty of the blaster to fix the time of blasting. The blaster shall conduct all blasting operations and no shot shall be fired without the blaster's approval.

(f) Before firing an underground blast, warning shall be given, and all possible entries into the blasting area, and any entrances to any working place where a drift, raise, or other opening is about to hole through, shall be carefully guarded. The blaster shall make sure that all employees are out of the blast area before firing a blast.

TABLE T-1

WARNING SIGNAL	— A 1-minute series of long blasts 5 minutes prior to blast signal.
BLAST SIGNAL	— A series of short blasts 1 minute prior to the shot.
ALL CLEAR SIGNAL	— A prolonged blast following the inspection of blast area.

(9) Inspection after blasting.

(a) Immediately after the blast has been fired, the firing line shall be disconnected from the blasting machine, or where power switches are used, they shall be locked open or in the off position.

(b) Sufficient time shall be allowed, not less than fifteen minutes in tunnels, for the smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the user (blaster) to determine if all charges have been exploded before employees are allowed to return to the operation, and in tunnels, after the muck pile has been wetted down.

(10) Misfires.

(a) If a misfire is found, the user (blaster) shall provide proper safeguards for excluding all employees or other personnel from the danger zone.

(b) No other work shall be done except that necessary to remove the hazard of the misfire and only those employees necessary to do the work shall remain in the danger zone.

(c) No attempt shall be made to extract explosives from any charged or misfired hole; a new primer shall be put in and the hole reblasted. If refiring of the misfired hole presents a hazard, the explosives may be removed by washing out with water or, where the misfire is under water, blown out with air.

(d) If there are any misfires while using cap and fuse, all employees shall remain away from the charge for at least one hour. Misfires shall be handled under the direction of the person in charge of the blasting.

(e) When electric blasting caps have been used, workers shall not return to misfired holes for at least thirty minutes. All wires shall be carefully traced and a search made for unexploded charges.

(f) If explosives are suspected of burning in a hole, all persons in the endangered area shall move to a safe location and no one shall return to the hole until the danger has passed, but in no case within one hour.

(g) No drilling, digging, or picking shall be permitted until all missed holes have been detonated or the authorized representative has approved that work can proceed.

(11) Underwater blasting.

(a) A user (blaster) shall conduct all blasting operations, and no shot shall be fired without the blaster's approval.

(b) Loading tubes and casings of dissimilar metals shall not be used because of possible electric transient currents from galvanic action of the metals and water.

(c) Only water-resistant initiation systems shall be used for underwater blasting. Loading shall be done through a nonsparking loading tube when tube is necessary.

(d) No blast shall be fired while any vessel under way is closer than 1,500 feet to the blasting area. Those on board vessels or craft moored or anchored within 1,500 feet shall be notified before a blast is fired.

(e) No blast shall be fired while any swimming or diving operations are in progress in the vicinity of the blasting area. If such operations are in progress, signals and arrangements shall be agreed upon to assure that no blast shall be fired while any persons are in the water.

(f) Blasting flags shall be displayed.

(g) The storage and handling of explosives aboard vessels used in underwater blasting operations shall be according to provisions outlined herein on handling and storing explosives.

(h) When more than one charge is placed under water, a float device shall be attached to an element of each charge in such manner that it will be released by the firing. Misfires shall be handled in accordance with the requirements of WAC 296-52-493(10).

(12) Blasting in excavation work in pressurized air locks.

(a) Detonators and explosives shall not be stored or kept in tunnels, shafts, or caissons. Detonators and explosives for each round shall be taken directly from the magazines to the blasting zone and immediately loaded. Detonators and explosives left over after loading a round shall be removed from the working chamber before the connecting wires are connected up. Explosives in transit shall not be left unattended.

PERMANENT

(b) When detonators or explosives are brought into an air lock, no employee except the powderperson, user (blaster), lock tender and the employees necessary for carrying, shall be permitted to enter the air lock. No material, supplies, or equipment shall be brought through with the explosives.

(c) Primers, detonators and explosives shall be taken separately into pressure working chambers.

(d) The user (blaster) or powderperson shall be responsible for the receipt, unloading, storage, and on-site transportation of explosives and detonators.

(e) All metal pipes, rails, air locks, and steel tunnel lining shall be electrically bonded together and grounded at or near the portal or shaft, and such pipes and rails shall be cross-bonded together at not less than 1,000-foot intervals throughout the length of the tunnel. In addition, each air supply pipe shall be grounded at its delivery end.

(f) The explosives suitable for use in wet holes shall be water-resistant and shall be Fume Class 1, or other approved explosives.

(g) When tunnel excavation in rock face is approaching mixed face, and when tunnel excavation is in mixed face, blasting shall be performed with light charges and with light burden on each hole. Advance drilling shall be performed as tunnel excavation in rock face approaches mixed face, to determine the general nature and extent of rock cover and the remaining distance ahead to soft ground as excavation advances.

(13) Vibration and damage control. Blasting operations in or adjacent to cofferdams, piers, underwater structures, buildings, structures, or other facilities shall be carefully planned with full consideration for all forces and conditions involved.

(14) Black blasting powder shall not be used for blasting.

(15) No person shall store, handle, or transport explosives or blasting agents when such storage, handling, and transportation of explosives or blasting agents constitutes an undue hazard to life.

(16) It shall be unlawful for any person to abandon explosives or explosive substances.

**AMENDATORY SECTION** (Amending WSR 99-07-097, filed 3/23/99, effective 6/23/99)

**WAC 296-62-41025 Refresher training.** (1) Those employees who are trained in accordance with WAC ((296-62-)) 296-62-41020 must receive annual refresher training of sufficient content and duration to maintain their competencies, or must demonstrate competency in those areas at least yearly.

(2) A statement must be made of the training or competency, and if a statement of competency is made, the employer must keep a record of the methodology used to demonstrate competency.

**AMENDATORY SECTION** (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-62-07347 Inorganic arsenic.** (1) Scope and application. This section applies to all occupational exposures to inorganic arsenic except that this section does not

apply to employee exposures in agriculture or resulting from pesticide application, the treatment of wood with preservatives or the utilization of arsenically preserved wood.

(2) Definitions.

(a) "Action level" - a concentration of inorganic arsenic of 5 micrograms per cubic meter of air ( $5 \mu\text{g}/\text{m}^3$ ) averaged over any eight-hour period.

(b) "Authorized person" - any person specifically authorized by the employer whose duties require the person to enter a regulated area, or any person entering such an area as a designated representative of employees for the purpose of exercising the right to observe monitoring and measuring procedures under subsection (5) of this section.

(c) "Director" - the director of the department of labor and industries, or his/her designated representative.

(d) "Inorganic arsenic" - copper aceto-arsenite and all inorganic compounds containing arsenic except arsine, measured as arsenic (As).

(3) Permissible exposure limit. The employer shall assure that no employee is exposed to inorganic arsenic at concentrations greater than 10 micrograms per cubic meter of air ( $10 \mu\text{g}/\text{m}^3$ ), averaged over any eight-hour period.

(4) Notification of use.

(a) Within sixty days after the introduction of inorganic arsenic into the workplace, every employer who is required to establish a regulated area in his/her workplaces shall report in writing to the department of labor and industries for each such workplace:

(i) The address of each such workplace;

(ii) The approximate number of employees who will be working in regulated areas; and

(iii) A brief summary of the operations creating the exposure and the actions which the employer intends to take to reduce exposures.

(b) Whenever there has been a significant change in the information required by subsection (4)(a) of this section, the employer shall report the changes in writing within sixty days to the department of labor and industries.

(5) Exposure monitoring.

(a) General.

(i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to inorganic arsenic over an eight-hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(iii) The employer shall collect full shift (for at least seven continuous hours) personal samples including at least one sample for each shift for each job classification in each work area.

(b) Initial monitoring. Each employer who has a workplace or work operation covered by this standard shall monitor each such workplace and work operation to accurately determine the airborne concentration of inorganic arsenic to which employees may be exposed.

(c) Frequency.

(i) If the initial monitoring reveals employee exposure to be below the action level the measurements need not be

repeated except as otherwise provided in subsection (5)(d) of this section.

(ii) If the initial monitoring, required by this section, or subsequent monitoring reveals employee exposure to be above the permissible exposure limit, the employer shall repeat monitoring at least quarterly.

(iii) If the initial monitoring, required by this section, or subsequent monitoring reveals employee exposure to be above the action level and below the permissible exposure limit the employee shall repeat monitoring at least every six months.

(iv) The employer shall continue monitoring at the required frequency until at least two consecutive measurements, taken at least seven days apart, are below the action level at which time the employer may discontinue monitoring for that employee until such time as any of the events in subsection (5)(d) of this section occur.

(d) Additional monitoring. Whenever there has been a production, process, control or personal change which may result in new or additional exposure to inorganic arsenic, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to inorganic arsenic, additional monitoring which complies with subsection (5) of this section shall be conducted.

(e) Employee notification.

(i) Within five working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposures.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limit, the employer shall include in the written notice a statement that the permissible exposure limit was exceeded and a description of the corrective action taken to reduce exposure to or below the permissible exposure limit.

(f) Accuracy of measurement.

(i) The employer shall use a method of monitoring and measurement which has an accuracy (with a confidence level of 95 percent) of not less than plus or minus 25 percent for concentrations of inorganic arsenic greater than or equal to 10  $\mu\text{g}/\text{m}^3$ .

(ii) The employer shall use a method of monitoring and measurement which has an accuracy (with confidence level of 95 percent) of not less than plus or minus 35 percent for concentrations of inorganic arsenic greater than 5  $\mu\text{g}/\text{m}^3$  but less than 10  $\mu\text{g}/\text{m}^3$ .

(6) Regulated area.

(a) Establishment. The employer shall establish regulated areas where worker exposures to inorganic arsenic, without regard to the use of respirators, are in excess of the permissible limit.

(b) Demarcation. Regulated areas shall be demarcated and segregated from the rest of the workplace in any manner that minimizes the number of persons who will be exposed to inorganic arsenic.

(c) Access. Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto to enter such areas.

(d) Provision of respirators. All persons entering a regulated area shall be supplied with a respirator, selected in accordance with subsection (8)(c) of this section.

(e) Prohibited activities. The employer shall assure that in regulated areas, food or beverages are not consumed, smoking products, chewing tobacco and gum are not used and cosmetics are not applied, except that these activities may be conducted in the lunchrooms, change rooms and showers required under subsection (12) of this section. Drinking water may be consumed in the regulated area.

(7) Methods of compliance.

(a) Controls.

(i) The employer shall institute engineering and work practice controls to reduce exposures to or below the permissible exposure limit, except to the extent that the employer can establish that such controls are not feasible.

(ii) Where engineering and work practice controls are not sufficient to reduce exposures to or below the permissible exposure limit, they shall nonetheless be used to reduce exposures to the lowest levels achievable by these controls and shall be supplemented by the use of respirators in accordance with subsection (8) of this section and other necessary personal protective equipment. Employee rotation is not required as a control strategy before respiratory protection is instituted.

(b) Compliance program.

(i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limit by means of engineering and work practice controls.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation in which inorganic arsenic is emitted; e.g., machinery used, material processed, controls in place, crew size, operating procedures and maintenance practices;

(B) Engineering plans and studies used to determine methods selected for controlling exposure to inorganic arsenic;

(C) A report of the technology considered in meeting the permissible exposure limit;

(D) Monitoring data;

(E) A detailed schedule for implementation of the engineering controls and work practices that cannot be implemented immediately and for the adaptation and implementation of any additional engineering and work practices necessary to meet the permissible exposure limit;

(F) Whenever the employer will not achieve the permissible exposure limit with engineering controls and work practices, the employer shall include in the compliance plan an analysis of the effectiveness of the various controls, shall install engineering controls and institute work practices on the quickest schedule feasible, and shall include in the compliance plan and implement a program to minimize the discomfort and maximize the effectiveness of respirator use; and

(G) Other relevant information.

(iii) Written plans for such a program shall be submitted upon request to the director, and shall be available at the worksite for examination and copying by the director, any affected employee or authorized employee representatives.

(iv) The plans required by this subsection shall be revised and updated at least every six months to reflect the current status of the program.

(8) Respiratory protection.

(a) General. For employees who use respirators required by this section, the employer must provide respirators that comply with the requirements of this subsection. Respirators must be used during:

(i) Period necessary to install or implement feasible engineering or work-practice controls;

(ii) Work operations, such as maintenance and repair activities, in which the employer establishes that engineering and work-practice controls are not feasible;

(iii) Work operations for which engineering work-practice controls are not yet sufficient to reduce employee exposures to or below the permissible exposure limit;

(iv) Emergencies.

(b) Respirator program.

(i) The employer must establish, implement, and maintain a respiratory protection program as required by chapter 296-62 WAC, Part E (except WAC 296-62-07130(1) and 296-62-07150 through 296-62-07156).

(ii) If an employee exhibits breathing difficulty during fit testing or respirator use, they must be examined by a physician trained in pulmonary medicine to determine whether they can use a respirator while performing the required duty.

(c) Respirator selection.

(i) The employer must use Table I of this section to select the appropriate respirator or combination of respirators for inorganic arsenic compounds without significant vapor pressure, and Table II of this section to select the appropriate respirator or combination of respirators for inorganic arsenic compounds that have significant vapor pressure.

(ii) Where employee exposures exceed the permissible exposure limit for inorganic arsenic and also exceed the relevant limit for other gases (for example, sulfur dioxide), any air-purifying respirator provided to the employee as specified by this section must have a combination high-efficiency filter with an appropriate gas sorbent. (See footnote in Table I)

(iii) Employees required to use respirators may choose, and the employer must provide, a powered air-purifying respirator if it will provide proper protection. In addition, the employer must provide a combination dust and acid-gas respirator to employees who are exposed to gases over the relevant exposure limits.

TABLE I

RESPIRATORY PROTECTION FOR INORGANIC ARSENIC PARTICULATE EXCEPT FOR THOSE WITH SIGNIFICANT VAPOR PRESSURE

Concentration of Inorganic Arsenic (as As) or Condition of Use	Required Respirator
(i) Unknown or greater or lesser than 20,000 $\mu\text{g}/\text{m}^3$ (20 $\text{mg}/\text{m}^3$ ) firefighting.	(A) Any full facepiece self-contained or breathing apparatus operated in positive pressure mode.
(ii) Not greater than 20,000 $\mu\text{g}/\text{m}^3$ (20 $\text{mg}/\text{m}^3$ )	(A) Supplied air respirator with full facepiece, hood, or helmet or suit and operated in positive pressure mode.
(iii) Not greater than 10,000 $\mu\text{g}/\text{m}^3$ (10 $\text{mg}/\text{m}^3$ )	(A) Powered air-purifying respirators in all inlet face coverings with high-efficiency filters. <sup>1</sup> (B) Half-mask supplied air respirators operated in positive pressure mode.
(iv) Not greater than 500 $\mu\text{g}/\text{m}^3$	(A) Full facepiece air-purifying respirator equipped with high-efficiency filter. <sup>1</sup> (B) Any full facepiece supplied air respirator. (C) Any full facepiece self-contained breathing apparatus.
(v) Not greater than 100 $\mu\text{g}/\text{m}^3$	(A) Half-mask air-purifying respirator equipped with high-efficiency filter. <sup>1</sup> (B) Any half-mask supplied air respirator.

<sup>1</sup>High-efficiency filter-99.97 pct efficiency against 0.3 micrometer monodisperse diethyl-hexyl phthalate (DOP) particles.

PERMANENT

TABLE II

RESPIRATORY PROTECTION FOR INORGANIC ARSENICALS (SUCH AS ARSENIC TRICHLORIDE<sup>2</sup> AND ARSENIC PHOSPHIDE) WITH SIGNIFICANT VAPOR PRESSURE

Concentration of Inorganic Arsenic (as As) or Condition of Use	Required Respirator
(i) Unknown or greater or lesser than 20,000 µg/m <sup>3</sup> (20 mg/m <sup>3</sup> ) or firefighting.	(A) Any full facepiece contained breathing apparatus operated in positive pressure mode.
(ii) Not greater than 20,000 µg/m <sup>3</sup> (20 mg/m <sup>3</sup> )	(A) Supplied air respirator with full facepiece hood, or helmet or suit and operated in positive pressure mode.
(iii) Not greater than 10,000 µg/m <sup>3</sup> (10 mg/m <sup>3</sup> )	(A) Half-mask <sup>2</sup> supplied air respirator operated in positive pressure mode.
(iv) Not greater than 500 µg/m <sup>3</sup>	(A) Front or back mounted gas mask equipped with high-efficiency filter <sup>1</sup> and acid gas canister.
	(B) Any full facepiece supplied air respirator.
	(C) Any full facepiece self-contained breathing apparatus.
(v) Not greater than 100 µg/m <sup>3</sup>	(A) Half-mask <sup>2</sup> air-purifying respirator equipped with high-efficiency filter <sup>1</sup> and acid gas cartridge.
	(B) Any half-mask supplied air respirator.

<sup>1</sup>High efficiency filter-99.97 pct efficiency against 0.3 micrometer monodisperse diethyl-hexyl phthalate (DOP) particles.

<sup>2</sup>Half-mask respirators shall not be used for protection against arsenic trichloride, as it is rapidly absorbed through the skin.

(9) **Reserved.**

(10) Protective work clothing and equipment.

(a) Provision and use. Where the possibility of skin or eye irritation from inorganic arsenic exists, and for all workers working in regulated areas, the employer shall provide at no cost to the employee and assure that employees use appro-

priate and clean protective work clothing and equipment such as, but not limited to:

(i) Coveralls or similar full-body work clothing;

(ii) Gloves, and shoes or coverlets;

(iii) Face shields or vented goggles when necessary to prevent eye irritation, which comply with the requirements of WAC 296-24-07801 (1) - (6).

(iv) Impervious clothing for employees subject to exposure to arsenic trichloride.

(b) Cleaning and replacement.

(i) The employer shall provide the protective clothing required in subsection (10)(a) of this section in a freshly laundered and dry condition at least weekly, and daily if the employee works in areas where exposures are over 100 µg/m<sup>3</sup> of inorganic arsenic or in areas where more frequent washing is needed to prevent skin irritation.

(ii) The employer shall clean, launder, or dispose of protective clothing required by subsection (10)(a) of this section.

(iii) The employer shall repair or replace the protective clothing and equipment as needed to maintain their effectiveness.

(iv) The employer shall assure that all protective clothing is removed at the completion of a work shift only in change rooms prescribed in subsection (13)(a) of this section.

(v) The employer shall assure that contaminated protective clothing which is to be cleaned, laundered, or disposed of, is placed in a closed container in the change-room which prevents dispersion of inorganic arsenic outside the container.

(vi) The employer shall inform in writing any person who cleans or launders clothing required by this section, of the potentially harmful affects including the carcinogenic effects of exposure to inorganic arsenic.

(vii) The employer shall assure that the containers of contaminated protective clothing and equipment in the workplace or which are to be removed from the workplace are labeled as follows:

**Caution:** Clothing contaminated with inorganic arsenic; do not remove dust by blowing or shaking. Dispose of inorganic arsenic contaminated wash water in accordance with applicable local, state, or federal regulations.

(viii) The employer shall prohibit the removal of inorganic arsenic from protective clothing or equipment by blowing or shaking.

(11) Housekeeping.

(a) Surfaces. All surfaces shall be maintained as free as practicable of accumulations of inorganic arsenic.

(b) Cleaning floors. Floors and other accessible surfaces contaminated with inorganic arsenic may not be cleaned by the use of compressed air, and shoveling and brushing may be used only where vacuuming or other relevant methods have been tried and found not to be effective.

(c) Vacuuming. Where vacuuming methods are selected, the vacuums shall be used and emptied in a manner to minimize the reentry of inorganic arsenic into the workplace.

(d) Housekeeping plan. A written housekeeping and maintenance plan shall be kept which shall list appropriate frequencies for carrying out housekeeping operations, and for

cleaning and maintaining dust collection equipment. The plan shall be available for inspection by the director.

(e) Maintenance of equipment. Periodic cleaning of dust collection and ventilation equipment and checks of their effectiveness shall be carried out to maintain the effectiveness of the system and a notation kept of the last check of effectiveness and cleaning or maintenance.

(12) **Reserved.**

(13) Hygiene facilities and practices.

(a) Change rooms. The employer shall provide for employees working in regulated areas or subject to the possibility of skin or eye irritation from inorganic arsenic, clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment in accordance with WAC 296-24-12011.

(b) Showers.

(i) The employer shall assure that employees working in regulated areas or subject to the possibility of skin or eye irritation from inorganic arsenic shower at the end of the work shift.

(ii) The employer shall provide shower facilities in accordance with WAC 296-24-12009(3).

(c) Lunchrooms.

(i) The employer shall provide for employees working in regulated areas, lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees working in regulated areas.

(ii) The employer shall assure that employees working in the regulated area or subject to the possibility of skin or eye irritation from exposure to inorganic arsenic wash their hands and face prior to eating.

(d) Lavatories. The employer shall provide lavatory facilities which comply with WAC 296-24-12009 (1) and (2).

(e) Vacuuming clothes. The employer shall provide facilities for employees working in areas where exposure, without regard to the use of respirators, exceeds 100  $\mu\text{g}/\text{m}^3$  to vacuum their protective clothing and clean or change shoes worn in such areas before entering change rooms, lunchrooms or shower rooms required by subsection (10) of this section and shall assure that such employees use such facilities.

(f) Avoidance of skin irritation. The employer shall assure that no employee is exposed to skin or eye contact with arsenic trichloride, or to skin or eye contact with liquid or particulate inorganic arsenic which is likely to cause skin or eye irritation.

(14) Medical surveillance.

(a) General.

(i) Employees covered. The employer shall institute a medical surveillance program for the following employees:

(A) All employees who are or will be exposed above the action level, without regard to the use of respirators, at least thirty days per year; and

(B) All employees who have been exposed above the action level, without regard to respirator use, for thirty days or more per year for a total of ten years or more of combined employment with the employer or predecessor employers prior to or after the effective date of this standard. The deter-

mination of exposures prior to the effective date of this standard shall be based upon prior exposure records, comparison with the first measurements taken after the effective date of this standard, or comparison with records of exposures in areas with similar processes, extent of engineering controls utilized and materials used by that employer.

(ii) Examination by physician. The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee, without loss of pay and at a reasonable time and place.

(b) Initial examinations. For employees initially covered by the medical provisions of this section, or thereafter at the time of initial assignment to an area where the employee is likely to be exposed over the action level at least thirty days per year, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and a medical history which shall include a smoking history and the presence and degree of respiratory symptoms such as breathlessness, cough, sputum production and wheezing.

(ii) A medical examination which shall include at least the following:

(A) A 14" by 17" posterior-anterior chest x-ray and International Labor Office UICC/Cincinnati (ILO U/C) rating;

(B) A nasal and skin examination; and

(C) Other examinations which the physician believes appropriate because of the employees exposure to inorganic arsenic or because of required respirator use.

(c) Periodic examinations.

(i) The employer shall provide the examinations specified in subsection((s)) (14)(b)(i) and ~~((14)(b))~~(ii)(A), (B) and (C) of this section at least annually for covered employees who are under forty-five years of age with fewer than ten years of exposure over the action level without regard to respirator use.

(ii) The employer shall provide the examinations specified in subsection((s)) (14)(b)(i) and (ii)(B) and (C) of this section at least semi-annually, and the x-ray requirements specified in subsection (14)(b)(ii)(A) of this section at least annually, for other covered employees.

(iii) Whenever a covered employee has not taken the examinations specified in subsection (14)(b)(i) and (ii)(B) and (C) of this section within six months preceding the termination of employment, the employer shall provide such examinations to the employee upon termination of employment.

(d) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to inorganic arsenic the employer shall provide an appropriate examination and emergency medical treatment.

(e) Information provided to the physician. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;



(iii) The employee's representative exposure level or anticipated exposure level;

(iv) A description of any personal protective equipment used or to be used; and

(v) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(f) Physician's written opinion.

(i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical examination and tests performed;

(B) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to inorganic arsenic;

(C) Any recommended limitations upon the employee's exposure to inorganic arsenic or upon the use of protective clothing or equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(15) Employee information and training.

(a) Training program.

(i) The employer shall institute a training program for all employees who are subject to exposure to inorganic arsenic above the action level without regard to respirator use, or for whom there is the possibility of skin or eye irritation from inorganic arsenic. The employer shall assure that those employees participate in the training program.

(ii) The training program shall be provided for employees covered by this provision, at the time of initial assignment for those subsequently covered by this provision, and shall be repeated at least quarterly for employees who have optional use of respirators and at least annually for other covered employees thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendix A;

(B) The quantity, location, manner of use, storage, sources of exposure, and the specific nature of operations which could result in exposure to inorganic arsenic as well as any necessary protective steps;

(C) The purpose, proper use, and limitation of respirators;

(D) The purpose and a description of medical surveillance program as required by subsection (14) of this section;

(E) The engineering controls and work practices associated with the employee's job assignment; and

(F) A review of this standard.

(b) Access to training materials.

(i) The employer shall make readily available to all affected employees a copy of this standard and its appendices.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the director.

(16) Signs and labels.

(a) General.

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this subsection.

(ii) The employer shall assure that no statement appears on or near any sign or label required by this subsection which contradicts or detracts from the meaning of the required sign or label.

(b) Signs.

(i) The employer shall post signs demarcating regulated areas bearing the legend:

DANGER

INORGANIC ARSENIC

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

NO SMOKING OR EATING

RESPIRATOR REQUIRED

(ii) The employer shall assure that signs required by this subsection are illuminated and cleaned as necessary so that the legend is readily visible.

(c) Labels. The employer shall apply precautionary labels to all shipping and storage containers of inorganic arsenic, and to all products containing inorganic arsenic except when the inorganic arsenic in the product is bound in such a manner so as to make unlikely the possibility of airborne exposure to inorganic arsenic. (Possible examples of products not requiring labels are semiconductors, light emitting diodes and glass.) The label shall bear the following legend:

DANGER

CONTAINS INORGANIC ARSENIC

CANCER HAZARD

HARMFUL IF INHALED OR SWALLOWED

USE ONLY WITH ADEQUATE VENTILATION

OR RESPIRATORY PROTECTION

(17) Recordkeeping.

(a) Exposure monitoring.

(i) The employer shall establish and maintain an accurate record of all monitoring required by subsection (5) of this section.

(ii) This record shall include:

(A) The date(s), number, duration location, and results of each of the samples taken, including a description of the sam-

PERMANENT

pling procedure used to determine representative employee exposure where applicable;

(B) A description of the sampling and analytical methods used and evidence of their accuracy;

(C) The purpose, proper use, limitations, and other training requirements covering respiratory protection as required in chapter 296-62 WAC, Part E;

(D) Name, Social Security number, and job classification of the employees monitored and of all other employees whose exposure the measurement is intended to represent; and

(E) The environmental variables that could affect the measurement of the employee's exposure.

(iii) The employer shall maintain these monitoring records for at least forty years or for the duration of employment plus twenty years, whichever is longer.

(b) Medical surveillance.

(i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by subsection (14) of this section.

(ii) This record shall include:

(A) The name, Social Security number, and description of duties of the employee;

(B) A copy of the physician's written opinions;

(C) Results of any exposure monitoring done for that employee and the representative exposure levels supplied to the physician; and

(D) Any employee medical complaints related to exposure to inorganic arsenic.

(iii) The employer shall in addition keep, or assure that the examining physician keeps, the following medical records:

(A) A copy of the medical examination results including medical and work history required under subsection (14) of this section;

(B) A description of the laboratory procedures and a copy of any standards or guidelines used to interpret the test results or references to that information;

(C) The initial x-ray;

(D) The x-rays for the most recent five years; and

(E) Any x-rays with a demonstrated abnormality and all subsequent x-rays;

~~(F) Any cytologic examination slides with demonstrated atypia, if such atypia persists for three years, and all subsequent slides and written descriptions).~~

(iv) The employer shall maintain or assure that the physician maintains those medical records for at least forty years, or for the duration of employment, plus twenty years, whichever is longer.

(c) Availability.

(i) The employer shall make available upon request all records required to be maintained by subsection (17) of this section to the director for examination and copying.

(ii) Records required by this subsection shall be provided upon request to employees, designated representatives, and the assistant director in accordance with WAC 296-62-05201 through 296-62-05209 and 296-62-05213 through 296-62-05217.

(iii) The employer shall make available upon request an employee's medical records and exposure records representa-

tive of that employee's exposure required to be maintained by subsection (17) of this section to the affected employee or former employee or to a physician designated by the affected employee or former employee.

(d) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records required to be maintained by this section for the prescribed period, these records shall be transmitted to the director.

(iii) At the expiration of the retention period for the records required to be maintained by this section, the employer shall notify the director at least three months prior to the disposal of such records and shall transmit those records to the director if he requests them within that period.

(iv) The employer shall also comply with any additional requirements involving transfer of records set forth in WAC 296-62-05215.

(18) Observation of monitoring.

(a) Employee observation. The employer shall provide affected employees or their designated representatives an opportunity to observe any monitoring of employee exposure to inorganic arsenic conducted pursuant to subsection (5) of this section.

(b) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to inorganic arsenic requires entry into an area where the use of respirators, protective clothing, or equipment is required, the employer shall provide the observer with and assure the use of such respirators, clothing, and such equipment, and shall require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled to;

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the monitoring of inorganic arsenic performed at the place of exposure; and

(C) Record the results obtained or receive copies of the results when returned by the laboratory.

(19) Appendices. The information contained in the appendices to this section is not intended by itself, to create any additional obligations not otherwise imposed by this standard nor detract from any existing obligation.

**AMENDATORY SECTION** (Amending WSR 98-02-030, filed 12/31/97, effective 1/31/98)

**WAC 296-62-07354 Appendices—Inorganic arsenic.** The information in Appendices A, B, and C is not intended, by itself, to create any additional obligations not otherwise imposed by WAC 296-62-07347 nor detract from existing obligation.

(1) Appendix A—Inorganic arsenic substance information sheet.

(a) Substance identification.

(i) Substance. Inorganic arsenic.

(ii) Definition. Copper acetoarsenite, arsenic and all inorganic compounds containing arsenic except arsine, measured as arsenic (As).

(iii) Permissible exposure limit. Ten micrograms per cubic meter of air as determined as an average over an 8 hour period. No employee may be exposed to any skin or eye contact with arsenic trichloride or to skin or eye contact likely to cause skin or eye irritation.

(iv) Regulated areas. Only employees authorized by your employer should enter a regulated area.

(b) Health hazard data.

(i) Comments. The health hazard of inorganic arsenic is high.

(ii) Ways in which the chemical affects your body. Exposure to airborne concentrations of inorganic arsenic may cause lung cancer, and can be a skin irritant. Inorganic arsenic may also affect your body if swallowed. One compound in particular, arsenic trichloride, is especially dangerous because it can be absorbed readily through the skin. Because inorganic arsenic is a poison, you should wash your hands thoroughly prior to eating or smoking.

(c) Personal protective equipment and clothing.

(i) Respirators. Respirators will be provided by the employer at no cost to employees for routine use if the employer is in the process of implementing engineering and work practice controls or where engineering and work practice controls are not feasible or insufficient. Respirators must be worn for nonroutine activities or in emergency situations where there is likely to be exposure to levels of inorganic arsenic in excess of the permissible exposure limit. Since how well the respirator fits is very important, the employer is required to conduct fit tests to make sure the respirator seals properly when worn. These tests are simple and rapid and will be explained during training sessions.

(ii) Protective clothing. If work is in a regulated area, the employer is required to provide at no cost to employees, and it must be worn, appropriate, clean, protective clothing and equipment. The purpose of this equipment is to prevent the employee from taking home arsenic-contaminated dust and to protect the body from repeated skin contact with inorganic arsenic likely to cause skin irritation. This clothing shall include such items as coveralls or similar full-body clothing, gloves, shoes or coverlets, and aprons. Protective equipment should include face shields or vented goggles, where eye irritation may occur.

(d) Hygiene facilities and practices.

(i) The employer shall ensure that employees do not eat, drink, smoke, chew gum or tobacco, or apply cosmetics in the regulated area, except that drinking water is permitted. If work is in a regulated area, the employer is required to provide lunchrooms or other areas for these purposes.

(ii) If work is in a regulated area, the employer is required to provide showers, washing facilities, and change rooms. The employer shall ensure that employees wash faces and hands before eating and shower at the end of the work shift. Do not take used protective clothing out of change rooms without the employer's permission. The employer is required to provide for laundering or cleaning of the protective clothing.

(e) Signs and labels. The employer is required to post warning signs and labels for employee protection. Signs must be posted in regulated areas. The signs must warn that a cancer hazard is present, that only authorized employees may enter the area, and that no smoking or eating is allowed, and that respirators must be worn.

(f) Medical examinations. If exposure to arsenic is over the action level ( $5 \mu\text{g}/\text{m}^3$ ) (including all persons working in regulated areas) at least 30 days per year, or employees have been exposed to arsenic for more than 10 years over the action level, the employer is required to provide employees with a medical examination. The examination shall be every 6 months for employees over 45 years old or with more than 10 years exposure over the action level and annually for other covered employees. The medical examination must include a medical history; a chest x-ray (annual requirement only); skin examination; and nasal examination. The examining physician will provide a written opinion to the employer containing the results of the medical exams. Employees should also receive a copy of this opinion. The physician must not tell the employer any conditions he detects unrelated to occupational exposure to arsenic but must tell employees those conditions.

(g) Observation of monitoring. The employer is required to monitor employee exposure to arsenic and employees or their representatives are entitled to observe the monitoring procedure. Employees are entitled to receive an explanation of the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, employees must also be provided with and must wear the protective clothing and equipment.

(h) Access to records. Employees or their representatives are entitled to records of employee exposure to inorganic arsenic upon request to the employer. Employee medical examination records can be furnished to employees' physician if employees request the employer to provide them.

(i) Training and notification. Additional information on all of these items plus training as to hazards of exposure to inorganic arsenic and the engineering and work practice controls associated with employees' jobs will also be provided by the employer. If employees are exposed over the permissible exposure limit, the employer must inform employees of that fact and the actions to be taken to reduce employee exposure.

(2) Appendix B—Substance technical guidelines. Arsenic, arsenic trioxide, arsenic trichloride (3 examples)

(a) Physical and chemical properties

(i) Arsenic (metal)

(A) Formula: As

(B) Appearance: Gray metal

(C) Melting point: Sublimes without melting at 613C

(D) Specific gravity: ( $\text{H}_2\text{O}=1$ ):5.73.

(E) Solubility in water: Insoluble

(ii) Arsenic trioxide

(A) Formula:  $\text{As}_2\text{O}_3$ , ( $\text{As}_4\text{O}_6$ ).

(B) Appearance: White powder

(C) Melting point: 315C

(D) Specific gravity: ( $\text{H}_2\text{O}=1$ ):3.74

(E) Solubility in water: 3.7 grams in 100cc of water at 20C

(iii) Arsenic trichloride (liquid)(Trichloride)

(A) Formula: AsCL<sub>3</sub>

(B) Appearance: Colorless or pale yellow liquid

(C) Melting point: -8.5C

(D) Boiling point: 130.2C

(E) Specific gravity (1120=1)2:16 at 20C

(F) Vapor Pressure: 10mm Hg at 23.5C.

(G) Solubility in water: Decomposes in water.

(b) Fire, explosion, and reactivity data.

(i) Fire: Arsenic trioxide and arsenic trichloride are non-flammable.

(ii) Reactivity:

(A) Conditions contributing to instability: Heat.

(B) Incompatibility: Hydrogen gas can react with inorganic arsenic to form the highly toxic gas arsine.

(c) Monitoring and measurement procedures.

(i) Samples collected should be full shift (at least 7 hours) samples. Sampling should be done using a personal sampling pump at a flow rate of 2 liters per minute. Samples should be collected on 0.8 micrometer pore size membrane filter (37mm diameter). Volatile arsenicals such as arsenic trichloride can be most easily collected in a midjet bubbler filled with 15 ml. of 0.1 N NaOH.

(ii) The method of sampling and analysis should have an accuracy of not less than  $\pm 25$  percent (with a confidence limit of 95 percent) for 10 micrograms per cubic meter of air ( $10 \mu\text{g}/\text{m}^3$ ) and  $\pm 35$  percent (with a confidence limit of 95 percent) for concentrations of inorganic arsenic between 5 and  $10 \mu\text{g}/\text{m}^3$ .

(3) Appendix C—Medical surveillance guidelines.

(a) General.

(i) Medical examinations are to be provided for all employees exposed to levels of inorganic arsenic above the action level ( $5 \mu\text{g}/\text{m}^3$ ) for at least 30 days per year (which would include among others, all employees, who work in regulated areas). Examinations are also to be provided to all employees who have had 10 years or more exposure above the action level for more than 30 days per year while working for the present or predecessor employer though they may no longer be exposed above the level.

(ii) An initial medical examination is to be provided to all such employees by December 1, 1978. In addition, an initial medical examination is to be provided to all employees who are first assigned to areas in which worker exposure will probably exceed  $5 \mu\text{g}/\text{m}^3$  (after the effective date of this standard) at the time of initial assignment. In addition to its immediate diagnostic usefulness the initial examination will provide a baseline for comparing future test results. The initial examination must include as a minimum the following elements:

(A) A work and medical history, including a smoking history, and presence and degree of respiratory symptoms such as breathlessness, cough, sputum production, and wheezing;

(B) A 14-inch by 17-inch posterior-anterior chest x-ray and an International Labor Office UICC/Cincinnati (ILO U/C) rating;

(C) A nasal and skin examination; and

(D) Other examinations which the physician believes appropriate because of the employee's exposure to inorganic arsenic or because of required respirator use.

(iii) Periodic examinations are also to be provided to the employees listed above. The periodic examinations shall be given annually for those covered employees 45 years of age or less with fewer than 10 years employment in areas where employee exposure exceeds the action level ( $5 \mu\text{g}/\text{m}^3$ ). Periodic examinations need ~~((to include an updated work history and medical history; chest x ray; nasal and skin examinations; and other examinations which the physician believes appropriate))~~ not include sputum cytology and only an updated medical history is required.

(iv) Periodic examinations for other covered employees, shall be provided every 6 months. These examinations shall include ~~((an updated work history and medical history; nasal and skin examinations; and other examinations which the physician believes appropriate))~~ all tests required in the initial examination, except that the medical history need only be updated.

(v) The examination contents are minimum requirements. Additional tests such as lateral and oblique x-rays or pulmonary function tests may be useful. For workers exposed to 3 arsenicals, copper acetoarsenite, potassium arsenite, or sodium arsenite, which are associated with lymphatic cancer, the examination should also include palpation of superficial lymph nodes and complete blood count.

(b) Noncarcinogenic effects.

(i) The WISHA standard is based on minimizing risk of exposed workers dying of lung cancer from exposure to inorganic arsenic. It will also minimize skin cancer from such exposures.

(ii) The following three sections quoted from "Occupational Diseases: A Guide to Their Recognition," Revised Edition, June 1977, National Institute for Occupational Safety and Health is included to provide information on the nonneoplastic effects of exposure to inorganic arsenic. Such effects should not occur if the WISHA standards are followed.

(A) Local—Trivalent arsenic compounds are corrosive to the skin. Brief contact has no effect but prolonged contact results in a local hyperemia and later vesicular or pustular eruption. The moist mucous membranes are most sensitive to the irritant action. Conjunctiva, moist and macerated areas of skin, the eyelids, the angles of the ears, nose, mouth, and respiratory mucosa are also vulnerable to the irritant effects. The wrists are common sites of dermatitis, as are the genitalia if personal hygiene is poor. Perforations of the nasal septum may occur. Arsenic trioxide and pentoxide are capable of producing skin sensitization and contact dermatitis. Arsenic is also capable of producing keratoses, especially of the palms and soles.

(B) Systemic.

(I) The acute toxic effects of arsenic are generally seen following ingestion of inorganic (~~(arsenial))~~ arsenical compounds. This rarely occurs in an industrial setting. Symptoms develop within 1/2 to 4 hours following ingestion and are usually characterized by constriction of the throat followed

by dysphagia, epigastric pain, vomiting, and watery diarrhea. Blood may appear in vomitus and stools. If the amount ingested is sufficiently high, shock may develop due to severe fluid loss, and death may ensue in 24 hours. If the acute effects are survived, exfoliative dermatitis and peripheral neuritis may develop.

(II) Cases of acute arsenical poisoning due to inhalation are exceedingly rare in industry. When it does occur, respiratory tract symptoms - cough, chest pain, dyspnea - giddiness, headache, and extreme general weakness precede gastrointestinal symptoms. The acute toxic symptoms of trivalent arsenical poisoning are due to severe inflammation of the mucous membranes and greatly increased permeability of the blood capillaries.

(III) Chronic arsenical poisoning due to ingestion is rare and generally confined to patients taking prescribed medications. However, it can be a concomitant of inhaled inorganic arsenic from swallowed sputum and improper eating habits. Symptoms are weight loss, nausea and diarrhea alternating with constipation, pigmentation and eruption of the skin, loss of hair, and peripheral neuritis. Chronic hepatitis and cirrhosis have been described. Polyneuritis may be the salient feature, but more frequently there are numbness and parasthenias of "glove and stocking" distribution. The skin lesions are usually melanotic and keratotic and may occasionally take the form of an intradermal cancer of the squamous cell type, but without infiltrative properties. Horizontal white lines (striations) on the fingernails and toenails are commonly seen in chronic arsenical poisoning and are considered to be a diagnostic accompaniment of arsenical polyneuritis.

(IV) Inhalation of inorganic arsenic compounds is the most common cause of chronic poisoning in the industrial situation. This condition is divided into three phases based on signs and symptoms.

(V) First phase: The worker complains of weakness, loss of appetite, some nausea, occasional vomiting, a sense of heaviness in the stomach, and some diarrhea.

(VI) Second phase: The worker complains of conjunctivitis, a catarrhal state of the mucous membranes of the nose, larynx, and respiratory passage. Coryza, hoarseness, and mild tracheobronchitis may occur. Perforation of the nasal septum is common, and is probably the most typical lesion of the upper respiratory tract in occupational exposure to arsenical dust. Skin lesions, eczematoid and allergic in type, are common.

(VII) Third phase: The worker complains of symptoms of peripheral neuritis, initially of hands and feet, which is essentially sensory. In more severe cases, motor paralysis occur; the first muscles affected are usually the toe extensors and the peronei. In only the most severe cases will paralysis of flexor muscles of the feet or of the extensor muscles of hands occur.

(VIII) Liver damage from chronic arsenical poisoning is still debated, and as yet the question is unanswered. In cases of chronic and acute arsenical poisoning, toxic effects to the myocardium have been reported based on EKG changes. These findings, however, are now largely discounted and the EKG changes are ascribed to electrolyte disturbances concomitant with arsenicalism. Inhalation of arsenic trioxide and other inorganic arsenical dusts does not give rise to radiolog-

ical evidence or pneumoconiosis. Arsenic does have a depressant effect upon the bone marrow, with disturbances of both erythropoiesis and myelopoiesis.

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AMENDATORY SECTION (Amending Order 93-01, filed 3/13/93, effective 4/27/93)

**WAC 296-62-07433 Appendices.** ~~((1) WAC 296-62-07445, Appendix C is incorporated as part of this section, and compliance with its contents is mandatory.~~

~~(2) Except where portions of) WAC 296-62-07441, appendix A; WAC 296-62-07443, appendix B; WAC 296-62-07447, appendix D; WAC 296-62-07449, appendix E; and WAC 296-62-07451, appendix F are ((expressly incorporated in requirements of WAC 296-62-07433, these appendices are purely informational)) nonmandatory appendices and are not intended to create any additional obligations ((~~not otherwise imposed or to detract from any existing obligations~~)).~~

AMENDATORY SECTION (Amending Order 94-07, filed 7/20/94, effective 9/20/94)

**WAC 296-62-07542 Appendix A—Substance technical guideline for formalin.** (1) The following substance technical guideline for formalin provides information on uninhibited formalin solution (thirty-seven percent formaldehyde, no methanol stabilizer). It is designed to inform employees at the production level of their rights and duties under the formaldehyde standard whether their job title defines them as workers or supervisors. Much of the information provided is general; however, some information is specific for formalin. When employee exposure to formaldehyde is from resins capable of releasing formaldehyde, the resin itself and other impurities or decomposition products may also be toxic, and employers should include this information as well when informing employees of the hazards associated with the materials they handle. The precise hazards associated with exposure to formaldehyde depend both on the form (solid, liquid, or gas) of the material and the concentration of formaldehyde present. For example, thirty-seven to fifty per-

cent solutions of formaldehyde present a much greater hazard to the skin and eyes from spills or splashes than solutions containing less than one percent formaldehyde. Individual substance technical guidelines used by the employer for training employees should be modified to properly give information on the material actually being used.

(a) Substance identification.

(i) Chemical name: Formaldehyde.

(ii) Chemical family: Aldehyde.

(iii) Chemical formula: HCHO.

(iv) Molecular weight: 30.03.

(v) Chemical abstracts service number (CAS number): 50-00-0.

Synonyms: Formalin; Formic Aldehyde; Paraform; Formol; Formalin (Methanol-free); Fyde; Formalith; Methanal; Methyl Aldehyde; Methylene Glycol; Methylene Oxide; Tetraoxymethalene; Oxomethane; Oxymethylene.

(b) Components and contaminants.

(i) Percent: 37.0 Formaldehyde.

(ii) Percent: 63.0 water.

Note: Inhibited solutions contain methanol.

(iii) Other contaminants: Formic acid (alcohol free).

Exposure limits:

(A) WISHA TWA-0.75 ppm.

(B) WISHA STEL-2 ppm.

(c) Physical data.

(i) Description: Colorless liquid, pungent odor.

(ii) Boiling point: 214°F (101°C).

(iii) Specific gravity: 1.08 (H<sub>2</sub>O=1 @ 20 C).

(iv) pH: 2.8-4.0.

(v) Solubility in water: Miscible.

(vi) Solvent solubility: Soluble in alcohol and acetone.

(vii) Vapor density: 1.04 (Air=1 @ 20 C).

(viii) Odor threshold: 0.8-1 ppm.

(d) Fire and explosion hazard.

(i) Moderate fire and explosion hazard when exposed to heat or flame.

(ii) The flash point of thirty-seven percent formaldehyde solutions is above normal room temperature, but the explosion range is very wide, from seven to seventy-three percent by volume in air.

(iii) Reaction of formaldehyde with nitrogen dioxide, nitromethane, perchloric acid and aniline, or peroxyformic acid yields explosive compounds.

(iv) Flash point: 185°F (85°C) closed cup.

(v) Lower explosion limit: Seven percent.

(vi) Upper explosion limit: Seventy-three percent.

(vii) Autoignition temperature: 806°F (430°C).

(viii) Flammable class (WISHA): III A.

Extinguishing media:

(I) Use dry chemical, "alcohol foam," carbon dioxide, or water in flooding amounts as fog. Solid streams may not be effective. Cool fire-exposed containers with water from side until well after fire is out.

(II) Use of water spray to flush spills can also dilute the spill to produce nonflammable mixtures. Water runoff, however, should be contained for treatment.

(ix) National Fire Protection Association Section 325M Designation:

(A) Health: 2-Materials hazardous to health, but areas may be entered with full-faced mask self-contained breathing apparatus which provides eye protection.

(B) Flammability: 2-Materials which must be moderately heated before ignition will occur. Water spray may be used to extinguish the fire because the material can be cooled below its flash point.

(C) Reactivity: D-Materials which (in themselves) are normally stable even under fire exposure conditions and which are not reactive with water. Normal fire fighting procedures may be used.

(e) Reactivity.

(i) Stability: Formaldehyde solutions may self-polymerize to form paraformaldehyde which precipitates.

(ii) Incompatibility (materials to avoid):

(A) Strong oxidizing agents, caustics, strong alkalis, isocyanates, anhydrides, oxides, and inorganic acids.

(B) Formaldehyde reacts with hydrochloric acid to form the potent carcinogen, bis-chloromethyl ether. Formaldehyde reacts with nitrogen dioxide, nitromethane, perchloric acid and aniline, or peroxyformic acid to yield explosive compounds. A violent reaction occurs when formaldehyde is mixed with strong oxidizers.

(C) Hazardous combustion or decomposition products: Oxygen from the air can oxidize formaldehyde to formic acid, especially when heated. Formic acid is corrosive.

(f) Health hazard data.

(i) Acute effects of exposure.

(A) Ingestion (swallowing): Liquids containing ten to forty percent formaldehyde cause severe irritation and inflammation of the mouth, throat, and stomach. Severe stomach pains will follow ingestion with possible loss of consciousness and death. Ingestion of dilute formaldehyde solutions (0.03-0.04%) may cause discomfort in the stomach and pharynx.

(B) Inhalation (breathing):

(I) Formaldehyde is highly irritating to the upper respiratory tract and eyes. Concentrations of 0.5 to 2.0 ppm may irritate the eyes, nose, and throat of some individuals.

(II) Concentrations of 3 to 5 ppm also cause tearing of the eyes and are intolerable to some persons.

(III) Concentrations of 10 to 20 ppm cause difficulty in breathing, burning of the nose and throat, coughing, and heavy tearing of the eyes, and 25 to 30 ppm causes severe respiratory tract injury leading to pulmonary edema and pneumonitis. A concentration of 100 ppm is immediately dangerous to life and health. Deaths from accidental exposure to high concentrations of formaldehyde have been reported.

(C) Skin (dermal): Formalin is a severe skin irritant and a sensitizer. Contact with formalin causes white discoloration, smarting, drying, cracking, and scaling. Prolonged and repeated contact can cause numbness and a hardening or tanning of the skin. Previously exposed persons may react to future exposure with an allergic eczematous dermatitis or hives.

(D) Eye contact: Formaldehyde solutions splashed in the eye can cause injuries ranging from transient discomfort to severe, permanent corneal clouding and loss of vision. The

severity of the effect depends on the concentration of formaldehyde in the solution and whether or not the eyes are flushed with water immediately after the accident.

Note: The perception of formaldehyde by odor and eye irritation becomes less sensitive with time as one adapts to formaldehyde. This can lead to overexposure if a worker is relying on formaldehyde's warning properties to alert him or her to the potential for exposure.

(E) Acute animal toxicity:

(I) Oral, rats: LD50=800 mg/kg.

(II) Oral, mouse: LD50=42 mg/kg.

(III) Inhalation, rats: LC50=250 mg/kg.

(IV) Inhalation, mouse: LC50=900 mg/kg.

(V) Inhalation, rats: LC50=590 mg/kg.

(g) Chronic effects of exposure.

(i) Carcinogenicity: Formaldehyde has the potential to cause cancer in humans. Repeated and prolonged exposure increases the risk. Various animal experiments have conclusively shown formaldehyde to be a carcinogen in rats. In humans, formaldehyde exposure has been associated with cancers of the lung, nasopharynx and oropharynx, and nasal passages.

(ii) Mutagenicity: Formaldehyde is genotoxic in several in vitro test systems showing properties of both an initiator and a promoter.

(iii) Toxicity: Prolonged or repeated exposure to formaldehyde may result in respiratory impairment. Rats exposed to formaldehyde at 2 ppm developed benign nasal tumors and changes of the cell structure in the nose as well as inflamed mucous membranes of the nose. Structural changes in the epithelial cells in the human nose have also been observed. Some persons have developed asthma or bronchitis following exposure to formaldehyde, most often as the result of an accidental spill involving a single exposure to a high concentration of formaldehyde.

(h) Emergency and first-aid procedures.

(i) Ingestion (swallowing): If the victim is conscious, dilute, inactivate, or absorb the ingested formaldehyde by giving milk, activated charcoal, or water. Any organic material will inactivate formaldehyde. Keep affected person warm and at rest. Get medical attention immediately. If vomiting occurs, keep head lower than hips.

(ii) Inhalation (breathing): Remove the victim from the exposure area to fresh air immediately. Where the formaldehyde concentration may be very high, each rescuer must put on a self-contained breathing apparatus before attempting to remove the victim, and medical personnel should be informed of the formaldehyde exposure immediately. If breathing has stopped, give artificial respiration. Keep the affected person warm and at rest. Qualified first-aid or medical personnel should administer oxygen, if available, and maintain the patient's airways and blood pressure until the victim can be transported to a medical facility. If exposure results in a highly irritated upper respiratory tract and coughing continues for more than ten minutes, the worker should be hospitalized for observation and treatment.

(iii) Skin contact: Remove contaminated clothing (including shoes) immediately. Wash the affected area of your body with soap or mild detergent and large amounts of

water until no evidence of the chemical remains (at least fifteen to twenty minutes). If there are chemical burns, get first aid to cover the area with sterile, dry dressing, and bandages. Get medical attention if you experience appreciable eye or respiratory irritation.

(iv) Eye contact: Wash the eyes immediately with large amounts of water occasionally lifting lower and upper lids, until no evidence of chemical remains (at least fifteen to twenty minutes). In case of burns, apply sterile bandages loosely without medication. Get medical attention immediately. If you have experienced appreciable eye irritation from a splash or excessive exposure, you should be referred promptly to an ophthalmologist for evaluation.

(i) Emergency procedures.

(i) Emergencies:

(A) If you work in an area where a large amount of formaldehyde could be released in an accident or from equipment failure, your employer must develop procedures to be followed in event of an emergency. You should be trained in your specific duties in the event of an emergency, and it is important that you clearly understand these duties. Emergency equipment must be accessible and you should be trained to use any equipment that you might need. Formaldehyde contaminated equipment must be cleaned before reuse.

(B) If a spill of appreciable quantity occurs, leave the area quickly unless you have specific emergency duties. Do not touch spilled material. Designated persons may stop the leak and shut off ignition sources if these procedures can be done without risk. Designated persons should isolate the hazard area and deny entry except for necessary people protected by suitable protective clothing and respirators adequate for the exposure. Use water spray to reduce vapors. Do not smoke, and prohibit all flames or flares in the hazard area.

(ii) Special fire fighting procedures:

(A) Learn procedures and responsibilities in the event of a fire in your workplace.

(B) Become familiar with the appropriate equipment and supplies and their location.

(C) In fire fighting, withdraw immediately in case of rising sound from venting safety device or any discoloration of storage tank due to fire.

(j) Spill, leak, and disposal procedures.

(i) Occupational spill: For small containers, place the leaking container in a well ventilated area. Take up small spills with absorbent material and place the waste into properly labeled containers for later disposal. For larger spills, dike the spill to minimize contamination and facilitate salvage or disposal. You may be able to neutralize the spill with sodium hydroxide or sodium sulfite. Your employer must comply with EPA rules regarding the clean-up of toxic waste and notify state and local authorities, if required. If the spill is greater than 1,000 lb/day, it is reportable under EPA's superfund legislation.

(ii) Waste disposal: Your employer must dispose of waste containing formaldehyde in accordance with applicable local, state, and federal law and in a manner that minimizes exposure of employees at the site and of the clean-up crew.

(k) Monitoring and measurement procedures.

PERMANENT

(i) Monitoring requirements: If your exposure to formaldehyde exceeds the 0.5 ppm action level or the 2 ppm STEL, your employer must monitor your exposure. Your employer need not measure every exposure if a "high exposure" employee can be identified. This person usually spends the greatest amount of time nearest the process equipment. If you are a "representative employee," you will be asked to wear a sampling device to collect formaldehyde. This device may be a passive badge, a sorbent tube attached to a pump, or an impinger containing liquid. You should perform your work as usual, but inform the person who is conducting the monitoring of any difficulties you are having wearing the device.

(ii) Evaluation of 8-hour exposure: Measurements taken for the purpose of determining time-weighted average (TWA) exposures are best taken with samples covering the full shift. Samples collected must be taken from the employee's breathing zone air.

(iii) Short-term exposure evaluation: If there are tasks that involve brief but intense exposure to formaldehyde, employee exposure must be measured to assure compliance with the STEL. Sample collections are for brief periods, only fifteen minutes, but several samples may be needed to identify the peak exposure.

(iv) Monitoring techniques: WISHA's only requirement for selecting a method for sampling and analysis is that the methods used accurately evaluate the concentration of formaldehyde in employees' breathing zones. Sampling and analysis may be performed by collection of formaldehyde on liquid or solid sorbents with subsequent chemical analysis. Sampling and analysis may also be performed by passive diffusion monitors and short-term exposure may be measured by instruments such as real-time continuous monitoring systems and portable direct reading instruments.

(v) Notification of results: Your employer must inform you of the results of exposure monitoring representative of your job. You may be informed in writing, but posting the results where you have ready access to them constitutes compliance with the standard.

(l) Protective equipment and clothing.

(Material impervious to formaldehyde is needed if the employee handles formaldehyde solutions of one percent or more. Other employees may also require protective clothing or equipment to prevent dermatitis.)

(i) Respiratory protection(±

(A)). Use NIOSH-approved full facepiece negative pressure respirators equipped with approved cartridges or canisters within the use limitations of these devices. (Present restrictions on cartridges and canisters do not permit them to be used for a full workshift.) In all other situations, use positive pressure respirators such as the positive-pressure air purifying respirator or the self-contained breathing apparatus (SCBA).

~~((B) If you use a negative pressure respirator, your employer must provide you with fit testing of the respirator at least once a year in accordance with the procedures outlined in WAC 296-62-07550 Appendix E.))~~

(ii) Protective gloves:

(A) Wear protective (impervious) gloves provided by your employer, at no cost, to prevent contact with formalin.

(B) Your employer should select these gloves based on the results of permeation testing and in accordance with the ACGIH guidelines for selection of chemical protective clothing.

(iii) Eye protection:

(A) If you might be splashed in the eyes with formalin, it is essential that you wear goggles or some other type of complete protection for the eye.

(B) You may also need a face shield if your face is likely to be splashed with formalin, but you must not substitute face shields for eye protection. (This section pertains to formaldehyde solutions of one percent or more.)

(iv) Other protective equipment:

(A) You must wear protective (impervious) clothing and equipment provided by your employer at no cost to prevent repeated or prolonged contact with formaldehyde liquids.

(B) If you are required to change into whole-body chemical protective clothing, your employer must provide a change room for your privacy and for storage of your normal clothing.

(C) If you are splashed with formaldehyde, use the emergency showers and eyewash fountains provided by your employer immediately to prevent serious injury. Report the incident to your supervisor and obtain necessary medical support.

(2) Entry into an IDLH atmosphere. Enter areas where the formaldehyde concentration might be 100 ppm or more only with complete body protection including a self-contained breathing apparatus with a full facepiece operated in a positive pressure mode or a supplied-air respirator with full facepiece and operated in a positive pressure mode. This equipment is essential to protect your life and health under such extreme conditions.

(a) Engineering controls.

(i) Ventilation is the most widely applied engineering control method for reducing the concentration of airborne substances in the breathing zones of workers. There are two distinct types of ventilation.

(ii) Local exhaust: Local exhaust ventilation is designed to capture airborne contaminants as near to the point of generation as possible. To protect you, the direction of contaminant flow must always be toward the local exhaust system inlet and away from you.

(iii) General (mechanical):

(A) General dilution ventilation involves continuous introduction of fresh air into the workroom to mix with the contaminated air and lower your breathing zone concentration of formaldehyde. Effectiveness depends on the number of air changes per hour.

(B) Where devices emitting formaldehyde are spread out over a large area, general dilution ventilation may be the only practical method of control.

(iv) Work practices: Work practices and administrative procedures are an important part of a control system. If you are asked to perform a task in a certain manner to limit your exposure to formaldehyde, it is extremely important that you follow these procedures.

(b) Medical surveillance.



(i) Medical surveillance helps to protect employees' health. You are encouraged strongly to participate in the medical surveillance program.

(ii) Your employer must make a medical surveillance program available at no expense to you and at a reasonable time and place if you are exposed to formaldehyde at concentrations above 0.5 ppm as an 8-hour average or 2 ppm over any fifteen-minute period.

(A) You will be offered medical surveillance at the time of your initial assignment and once a year afterward as long as your exposure is at least 0.5 ppm (action level) or 2 ppm (STEL).

(B) Even if your exposure is below these levels, you should inform your employer if you have signs and symptoms that you suspect, through your training, are related to your formaldehyde exposure because you may need medical surveillance to determine if your health is being impaired by your exposure.

(iii) The surveillance plan includes:

(A) A medical disease questionnaire.

(B) A physical examination if the physician determines this is necessary.

(iv) If you are required to wear a respirator, your employer must offer you a physical examination and a pulmonary function test every year.

(v) The physician must collect all information needed to determine if you are at increased risk from your exposure to formaldehyde. At the physician's discretion, the medical examination may include other tests, such as a chest x-ray, to make this determination.

(vi) After a medical examination the physician will provide your employer with a written opinion which includes any special protective measures recommended and any restrictions on your exposure. The physician must inform you of any medical conditions you have which would be aggravated by exposure to formaldehyde. All records from your medical examinations, including disease surveys, must be retained at your employer's expense.

(c) Emergencies.

(i) If you are exposed to formaldehyde in an emergency and develop signs or symptoms associated with acute toxicity from formaldehyde exposure, your employer must provide you with a medical examination as soon as possible.

(ii) This medical examination will include all steps necessary to stabilize your health.

(iii) You may be kept in the hospital for observation if your symptoms are severe to ensure that any delayed effects are recognized and treated.

**AMENDATORY SECTION** (Amending WSR 98-02-030, filed 12/31/97, effective 1/31/98)

**WAC 296-62-20017 Medical surveillance.** (1) General requirements.

(a) Each employer shall institute a medical surveillance program for all employees who are employed in the regulated areas, at least 30 days per year.

(b) This program shall provide each employee covered under subsection (1)(a) of this section with an opportunity for medical examinations in accordance with this section.

(c) The employer shall inform any employee who refuses any required medical examination of the possible health consequences of such refusal and shall obtain a signed statement from the employee indicating that the employee understands the risk involved in the refusal to be examined.

(d) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and are provided without cost to the employee.

(2) Initial examinations. At the time of initial assignment to a regulated area or upon the institution of the medical surveillance program, the employer shall provide a medical examination including at least the following elements:

(a) A work history and medical history which shall include smoking history and the presence and degree of respiratory symptoms, such as breathlessness, cough, sputum production, and wheezing;

(b) A 14" x 17" posterior-anterior chest x-ray and International Labour Office UICC/Cincinnati (ILO U/C) rating;

(c) Pulmonary function tests including forced vital capacity (FVC) and forced expiratory volume at one second (FEV 1.0) with recording of type of equipment used;

(d) Weight;

(e) A skin examination;

(f) Urinalysis for sugar, albumin, and hematuria; and

(g) A urinary cytology examination.

(3) Periodic examinations.

(a) The employer shall provide the examinations specified in subsections (2)(a)-(f) of this section at least annually for employees covered under subsection (1)(a) of this section.

(b) The employer shall provide the examinations specified in subsection (2)(a) and (c)-(g) of this section at least semi-annually for employees 45 years of age or older or with five or more years employment in the regulated area.

(c) Whenever an employee who is 45 years of age or older or with five or more years employment in the regulated area transfers or is transferred from employment in a regulated area, the employer shall continue to provide the examinations specified in subsections (2)(a) and (c)-(g) of this section semi-annually, as long as that employee is employed by the same employer or a successor employer.

(d) The employer shall provide the x-ray specified in subsection (2)(b) of this section at least annually for employees covered under this subsection.

(e) Whenever an employee has not taken the examination specified in subsections (3)(a)-(c) of this section within the six months preceding the termination of employment, the employer shall provide such examinations to the employee upon termination of employment.

(4) Information provided to the physician. The employer shall provide the following information to the examining physician:

(a) A copy of this regulation and its Appendixes;

(b) A description of the affected employee's duties as they relate to the employee's exposure;

(c) The employee's exposure level or anticipated exposure level;

(d) A description of any personal protective equipment used or to be used; and

(e) Information from previous medical examinations of the affected employee which is not readily available to the examining physician.

(5) Physician's written opinion.

(a) The employer shall obtain a written opinion from the examining physician which shall include:

(i) The results of the medical examinations;

(ii) The physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of the employee's health from exposure to coke oven emissions;

(iii) Any recommended limitations upon the employee's exposure to coke oven emissions or upon the use of protective clothing or equipment such as respirators; and

(iv) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further explanation or treatment.

(b) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure.

(c) The employer shall provide a copy of the written opinion to the affected employee.

AMENDATORY SECTION (Amending WSR 99-10-071, filed 5/4/99, effective 9/1/99)

**WAC 296-62-20027 Appendix A—Coke oven emissions substance information sheet.**

#### APPENDIX A

#### COKE OVEN EMISSIONS SUBSTANCE INFORMATION SHEET

##### I. SUBSTANCE IDENTIFICATION

- (1) Substance: Coke oven emissions
- (2) Definition: The benzene-soluble fraction of total particulate matter present during the destructive distillation or carbonization of coal for the production of coke.
- (3) Permissible exposure limit: 150 micrograms per cubic meter of air determined as an average over an 8-hour period.
- (4) Regulated areas: Only employees authorized by your employer should enter a regulated area. The employer is required to designate the following areas as regulated areas: the coke oven battery, including topside and its machinery, pushside and its machinery, and the screening station; and the wharf, the beehive ovens and machinery.

##### II. HEALTH HAZARD DATA

Exposure to coke oven emissions is a cause of lung cancer, and possibly kidney cancer, in humans. Although it does not have an excess number of skin cancer cases in humans, repeated skin contact with coke oven emissions should be avoided.

### III. PROTECTIVE CLOTHING AND EQUIPMENT

- (1) Respirators: Respirators will be provided by your employer for routine use if your employer is in the process of implementing engineering and work practice controls or where engineering and work practice controls are not feasible or insufficient. You must wear respirators for nonroutine activities or in emergency situations where you are likely to be exposed to levels of coke oven emissions in excess of the permissible exposure limit. Since how well your respirator fits your face is very important, your employer is required to conduct fit tests to make sure the respirator seals properly when you wear it. These tests are simple and rapid and will be explained to you during your training sessions.
- (2) Protective clothing: Your employer is required to provide, and you must wear, appropriate, clean, protective clothing and equipment to protect your body from repeated skin contact with coke oven emissions and from the heat generated during the coking process. This clothing should include such items as jacket and pants and flame resistant gloves. Protective equipment should include face shield or vented goggles, protective helmets and safety shoes, insulated from hot surfaces where appropriate.

### IV. HYGIENE FACILITIES AND PRACTICES

You must not eat, drink, smoke, chew gum or tobacco, or apply cosmetics in the regulated area, except that drinking water is permitted. Your employer is required to provide lunchrooms and other areas for these purposes.

Your employer is required to provide showers, washing facilities, and change rooms. If you work in a regulated area, you must wash your face, and hands before eating. You must shower at the end of the work shift. Do not take used protective clothing out of the change rooms without your employer's permission. Your employer is required to provide for laundering or cleaning of your protective clothing.

### V. SIGNS AND LABELS

Your employer is required to post warning signs and labels for your protection. Signs must be posted in regulated areas. The signs must warn that a cancer hazard is present, that only authorized employees may enter the area, and that no smoking or eating is allowed. In regulated areas where coke oven emissions are above the permissible exposure limit, the signs should also warn that respirators must be worn.

### VI. MEDICAL EXAMINATIONS

If you work in a regulated area at least 30 days per year, your employer is required to provide you with a medical examination every year. The medical examination must include a medical history, a chest x-ray; pulmonary function test; weight comparison; skin examination; a urinalysis and a urine cytology exam for the early detection of urinary (~~or lung~~) cancer. (~~When you are either 45 years or older or have 5 or more years employment in the regulated areas, medical examinations are required every 6 months and include an~~

~~updated work history; an updated medical history; pulmonary function test; weight comparison; skin examination; a urinalysis; and a urine cytology exam.))~~ The urine cytology exam is only included in the initial exam until you are either forty-five years or older, or have five or more years employment in the regulated areas when the medical exams including this test, but excepting the x-ray exam, are to be given every six months; under these conditions, you are to be given an x-ray exam at least once a year. The examining physician will provide a written opinion to your employer containing the results of the medical exams. You should also receive a copy of this opinion.

#### VII. OBSERVATION OF MONITORING

Your employer is required to monitor your exposure to coke oven emissions and you are entitled to observe the monitoring procedure. You are entitled to receive an explanation of the measurement procedure, observe the steps taken in the measurement procedure, and to record the results obtained. When the monitoring procedure is taking place in an area where respirators or personal protective clothing and equipment are required to be worn, you must also be provided with and must wear the protective clothing and equipment.

#### VIII. ACCESS TO RECORDS

You or your representative are entitled to records of your exposure to coke oven emissions upon request to your employer. Your medical examination records can be furnished to your physician upon request to your employer.

#### IX. TRAINING AND EDUCATION

Additional information on all of these items plus training as to hazards of coke oven emissions and the engineering and work practice controls associated with your job will also be provided by your employer.

AMENDATORY SECTION (Amending WSR 98-02-030, filed 12/31/97, effective 1/31/98)

### **WAC 296-62-20029 Appendix B—Industrial hygiene and medical surveillance guidelines.**

#### APPENDIX B

##### INDUSTRIAL HYGIENE AND MEDICAL SURVEILLANCE GUIDELINES

###### I. INDUSTRIAL HYGIENE GUIDELINES

- (1) Sampling. (Benzene-Soluble Fraction Total Particulate Matter.)  
Samples collected should be full shift (8-hour) samples. Sampling should be done using a personal sampling pump with pulsation damper at a flow rate of 2 liters per minute. Samples should be collected on 0.8 micrometer pore size silver membrane filters (37 mm diameter) preceded by Gelman glass fiber type A filters encased in

three-piece plastic (polystyrene) field monitor cassettes. The cassette face cap should be on and the plug removed. The rotameter should be checked every hour to ensure that proper flow rates are maintained.

A minimum of three full-shift samples should be collected for each job classification on each battery, at least one (~~during and the night~~) from each shift. If disparate results are obtained for particular job classification, sampling should be repeated. It is advisable to sample each shift on more than one day to account for environmental variables (wind, precipitation, etc.) which may affect sampling. Differences in exposures among different work shifts may indicate a need to improve work practices on a particular shift. Sampling results from different shifts for each job classification should not be averaged. Multiple samples from same shift may be used to calculate an average exposure for a particular job classification.

- (2) Analysis.
- All extraction glassware is cleaned with dichromic acid cleaning solution, rinsed with tap water, then (~~deionized~~) deionized water, acetone, and allowed to dry completely. The glassware is rinsed with nanograde benzene before use. The Teflon cups are cleaned with benzene then with acetone.
  - Pre-weigh the 2 ml Perkin-Elmer Teflon cups to one hundredth of a milligram on a Perkin-Elmer autobalance AD 2 Tare weight of the cups is about 50 mg.
  - Place the silver membrane filter and glass fiber filter into a 15 ml test tube.
  - Extract with 5 ml of benzene for five minutes in an ultrasonic cleaner.
  - Filter the extract in 15 ml medium glass fritted funnels.
  - Rinse test tube and filters with two 1.5 ml aliquots of benzene and filter through the fritted glass funnel.
  - Collect the extract and two rinses in a 10 ml Kontes graduated evaporative concentrator.
  - Evaporate down to a 1 ml while rinsing the sides with benzene.
  - Pipet 0.5 ml into the Teflon cup and evaporate to dryness in a vacuum oven at 40°C for 3 hours.
  - Weight the Teflon cup and the weight gain is due to the benzene soluble residue in half the sample.

###### II. MEDICAL SURVEILLANCE GUIDELINES

- (1) General.  
The minimum requirements for the medical examination for coke oven workers are given in WAC 296-62-20017.  
The initial examination is to be provided to all coke oven workers (~~at the time of the initial assignment to a job in the regulated area~~) who work at least thirty days in the regulated area. The examination includes a 14" x 17" posterior-anterior chest x-ray and a ILO/UC rating to assure some standardization of x-ray reading, pulmonary function tests (FVC and FEV 1.0), weight, urinalysis, skin examination (~~and a sputum~~) and a urinary cyto-

logic examination. These tests are to serve as the baseline for comparing the employee's future test results. Periodic exams ~~((are to be performed semiannually only on those employees who are 45))~~ include all the elements of the initial exams, except that the urine cytologic test is to be performed only on those employees who are forty-five years of age or older or who have worked for ((5) five or more years in the regulated area ((and include an updated work history; an updated medical history; pulmonary function test; weight comparison; skin examination; a urinalysis; and a urine cytology exam)); periodic exams, with the exception of x-rays, are to be performed semiannually for this group instead of annually; for this group, x-rays will continue to be given at least annually. The examination contents are minimum requirements, additional tests such as lateral and oblique x-rays or additional pulmonary function tests may be performed if deemed necessary.

(2) Pulmonary function tests.

Pulmonary function tests should be performed in a manner which minimizes subject and operator bias. There has been shown to be learning effects with regard to the results obtained from certain tests, such as FEV 1.0. Best results can be obtained by multiple trials for each subject. The best of three trials or the average of the last three of five trials may be used in obtaining reliable results. The type of equipment used (manufacturer, model, etc.) should be recorded with the results as reliability and accuracy varies and such information may be important in the evaluation of test results. Care should be exercised to obtain the best possible testing equipment.

AMENDATORY SECTION (Amending WSR 98-10-073, 98-24-120 [and 99-12-091] filed 5/4/98, 12/2/98 [and 6/1/99] effective 10/1/99 [1/1/00])

**WAC 296-301-020 General safety requirements.** (1) Means of stopping machines. Every textile machine shall be provided with individual mechanical or electrical means for stopping such machines. On machines driven by belts and shafting a locking-type shifter or an equivalent positive device shall be used. On operations where injury to the operator might result if motors were to restart after power failures, provision shall be made to prevent machines from automatically restarting upon restoration of power.

(2) Handles. Stopping and starting handles shall be designed to the proper length to prevent the worker's hand or fingers from striking against any revolving part, gear guard, or any other part of the machine.

(3) Machine guarding. An employer must ensure that power transmission parts are guarded according to the requirements of WAC 296-24-205 through 296-24-20527 ~~((of the general safety and health standards))~~.

~~((Exception: Only the side and face sections of a nip point belt and pulley guard are required so that the guard extends at least: (a) Six inches beyond the rim of the pulley on the in-running and off-running sides of the belt; and (b) Two inches away from the rim and face of the pulley in all other directions.))~~

(4) Housekeeping. Aisles and working spaces shall be kept in good order ~~((, clean and free of obstructions))~~ in accordance with requirements of WAC ~~((296-24-120 through 296-24-12015, of the general safety and health standards))~~ 296-24-735 through 296-24-73505.

(5) Inspection and maintenance. All guards and other safety devices, including starting and stopping devices, shall be properly maintained.

(6) Lighting and illumination. Lighting and illumination shall conform to the general occupational health standards, chapter 296-62 WAC.

(7) Identification of piping systems. Identification of piping systems shall conform to American National Standard A13.1-1956.

(8) Identification of physical hazards. Identification of physical hazards shall be in accordance with the requirements of WAC 296-24-135 through 296-24-13503, of the general safety and health standards.

(9) Steam pipes. All pipes carrying steam or hot water for process or servicing machinery, when exposed to contact and located within seven feet of the floor or working platform shall be covered with a heat-insulating material, or guarded with equivalent protection.

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

AMENDATORY SECTION (Amending Order 74-19, filed 5/6/74)

**WAC 296-301-170 Clothing folding machine.** ~~((The crank arm and blade guide rods on both sides of the cloth-folding machines shall be protected from contact by barrier guards constructed to conform to the requirements of WAC 296-24-195 through 296-24-19513, of the general safety and health standards.))~~ Cloth-folding machines shall meet the requirements of WAC 296-24-195 through 296-24-19513.

AMENDATORY SECTION (Amending Order 74-19, filed 5/6/74)

**WAC 296-301-195 Open tanks and vats for mixing and storage of hot or corrosive liquids.** (1) ~~((Protection against falls. Open tanks and vats containing hot or corrosive liquids shall be provided with guardrails to))~~ Guardrails shall be provided for open tanks and vats which conform to the requirements of WAC 296-24-750 through 296-24-75011 ((, of the general safety and health standards)).

(2) Shutoff valves. Boiling tanks, caustic tanks, and hot liquid containers, so located that the operator cannot see the contents from the floor or working area, shall have emergency shutoff valves controlled from a point not subject to danger of splash. Valves shall conform to the ASME Pressure Vessel Code, section VIII, Unfired Pressure Vessels, 1968.

AMENDATORY SECTION (Amending Order 74-19, filed 5/6/74)

**WAC 296-301-220 Personal protective equipment.** (1) Personal protective equipment. Workers engaged in handling acids or caustics in bulk, repairing pipe lines containing

PERMANENT

acids or caustics, etc., shall be provided with personal protective (~~((occupational (safety)))~~) equipment to conform to the requirements of WAC 296-24-07501(~~(;)~~) and 296-24-07801(~~(; and 296-24-081 through 296-24-08113, of the general safety and health standards)~~).

(2) (~~((Respirators, gas masks, and such appliances, for emergency use only, shall be of a type required by WAC 296-24-081 through 296-24-08113, of the general safety and health standards.))~~) Respiratory protection. Employers must provide respiratory protection as required in chapter 296-62 WAC, Part E.

AMENDATORY SECTION (Amending Order 88-25, filed 11/14/88)

**WAC 296-155-270 Flammable and combustible liquids.** (1) General requirements.

(a) Only approved containers and portable tanks shall be used for storage and handling of flammable and combustible liquids. Approved metal safety cans, or department of transportation approved containers shall be used for the handling and use of flammable liquids in quantities (~~((greater than one gallon))~~) five gallons or less, except that this shall not apply to those flammable liquid materials which are highly viscid (~~((highly))~~) (extremely hard to pour), which may be used and handled in original shipping containers. For quantities of one gallon or less, only the original container (~~((or approved metal safety cans shall))~~) may be used for storage, use, and handling of flammable liquids.

(b) Flammable or combustible liquids shall not be stored in areas used for exits, stairways, or normally used for the safe passage of people.

(c) Flammable and combustible liquid containers shall be legibly marked to indicate their contents. Each storage container for flammable or combustible liquids, with a capacity of 50 gallons or more, shall have the contents of the container identified by a sign of clearly visible contrasting colors with letters at least 3 inches high, painted on the container at the discharge valve and at the fill point.

(d) Gasoline shall not be used as a solvent or a cleaning agent.

(2) Indoor storage of flammable and combustible liquids.

(a) No more than 25 gallons of flammable or combustible liquids shall be stored in a room outside of an approved storage cabinet. For storage of liquid petroleum gas, see WAC 296-155-275.

(b) Quantities of flammable and combustible liquid in excess of 25 gallons shall be stored in an acceptable or approved cabinet meeting the following requirements:

(i) Acceptable wooden storage cabinets shall be constructed in the following manner, or equivalent: The bottom, sides, and top shall be constructed of an exterior grade of plywood at least 1 inch in thickness, which shall not break down or delaminate under standard fire test conditions. All joints shall be rabbeted and shall be fastened in two directions with flathead wood screws, when more than one door is used, there shall be a rabbeted overlap of not less than 1 inch. Steel hinges shall be mounted in such a manner as to not lose their holding capacity due to loosening or burning out of the

screws when subjected to fire. Such cabinets shall be painted inside and out with fire retardant paint.

(ii) Approved metal storage cabinets will be acceptable.

(iii) Cabinets shall be labeled in conspicuous lettering, "Flammable—Keep fire away."

(c) Not more than 60 gallons of flammable or 120 gallons of combustible liquids shall be stored in any one storage cabinet. Not more than three such cabinets may be located in a single storage area. Quantities in excess of this shall be stored in an inside storage room.

(d)(i) Inside storage room shall be constructed to meet the required fire-resistive rating for their use. Such construction shall comply with the test specifications set forth in Standard Methods of Fire Test of Building Construction and Material, NFPA 251-1972.

(ii) Where an automatic extinguishing system is provided, the system shall be designed and installed in an approved manner. Openings to other rooms or buildings shall be provided with noncombustible liquid-tight raised sills or ramps at least 4 inches in height, or the floor in the storage area shall be at least 4 inches below the surrounding floor. Openings shall be provided with approved self-closing fire doors. The room shall be liquid-tight where the walls join the floor. A permissible alternate to the sill or ramp is an open-grated trench, inside of the room, which drains to a safe location. Where other portions of the building or other buildings are exposed, windows shall be protected as set forth in the Standard for Fire Doors and Windows, NFPA No. 80-1983, for Class E or F openings. Wood of at least 1-inch nominal thickness may be used for shelving, racks, dunnage, scuffboards, floor overlay and similar installations.

(iii) Materials which will react with water and create a fire hazard shall not be stored in the same room with flammable or combustible liquids.

(iv) Storage in inside storage rooms shall comply with Table D-2 following:

**TABLE D-2**

Fire protection provided	Fire resistance	Maximum size	Total allowable quantities gals./sq. ft./floor area
Yes	2 hrs.	500 sq. ft.	10
No	2 hrs.	500 sq. ft.	4
Yes	1 hr.	150 sq. ft.	5
No	1 hr.	150 sq. ft.	2

Note: Fire protection system shall be sprinkler, water spray, carbon dioxide or other system approved by a nationally recognized testing laboratory for this purpose.

(v) Electrical wiring and equipment located in inside storage rooms shall be approved for Class 1, Division 1, hazardous locations. For definition of Class 1, Division 1, hazardous locations, see WAC 296-155-456.

(vi) Every inside storage room shall be provided with either a gravity or a mechanical exhausting system. Such sys-

PERMANENT

tem shall commence not more than 12 inches above the floor and be designed to provide for a complete change of air within the room at least 6 times per hour. If a mechanical exhausting system is used, it shall be controlled by a switch located outside of the door. The ventilating equipment and any lighting fixtures shall be operated by the same switch. An electric pilot light shall be installed adjacent to the switch if flammable liquids are dispensed within the room. Where gravity ventilation is provided, the fresh air intake, as well as the exhausting outlet from the room, shall be on the exterior of the building in which the room is located.

(vii) In every inside storage room there shall be maintained one clear aisle at least 3 feet wide. Containers over 30 gallons capacity shall not be stacked one upon the other.

(viii) Flammable and combustible liquids in excess of that permitted in inside storage rooms shall be stored outside of buildings in accordance with subsection (3) of this section.

(3) Storage outside buildings.

(a) Storage of containers (not more than 60 gallons each) shall not exceed 1,100 gallons in any one pile or area. Piles or groups of containers shall be separated by a 5-foot clearance. Piles or groups of containers shall not be nearer than 20 feet to a building.

(b) Within 200 feet of each pile of containers, there shall be a 12-foot-wide access way to permit approach of fire control apparatus.

(c) The storage area shall be graded in a manner to divert possible spills away from buildings or other exposures, or shall be surrounded by a curb or earth dike at least 12 inches high. When curbs or dikes are used, provisions shall be made for draining off accumulations of ground or rain water, or spills of flammable or combustible liquids. Drains shall terminate at a safe location and shall be accessible to operation under fire conditions.

(d) Outdoor portable tank storage.

(i) Portable tanks shall not be nearer than 20 feet from any building. Two or more portable tanks, grouped together, having a combined capacity in excess of 2,200 gallons, shall be separated by a 5-foot-clear area. Individual portable tanks exceeding 1,100 gallons shall be separated by a 5-foot-clear area.

(ii) Within 200 feet of each portable tank, there shall be a 12-foot-wide access way to permit approach of fire control apparatus.

(e) Storage areas shall be kept free of weeds, debris, and other combustible material not necessary to the storage.

(f) Portable tanks, not exceeding 660 gallons, shall be provided with emergency venting and other devices, as required by chapters III and IV of NFPA 30-1972, The Flammable and Combustible Liquids Code.

(g) Portable tanks, in excess of 660 gallons, shall have emergency venting and other devices, as required by chapters II and III of the Flammable and Combustible Liquids Code, NFPA 30-1972.

(4) Fire control for flammable or combustible liquid storage.

(a) At least one portable fire extinguisher, having a rating of not less than 20-B units, shall be located outside of, but not more than 10 feet from, the door opening into any room used

for storage of more than 60 gallons of flammable or combustible liquids.

(b) At least one portable fire extinguisher having a rating of not less than 20-B units shall be located not less than 25 feet, nor more than 75 feet, from any flammable liquid storage area located outside.

(c) When sprinklers are provided, they shall be installed in accordance with the Standard for the Installation of Sprinkler Systems, NFPA 13-1972.

(d) At least one portable fire extinguisher having a rating of not less than 20-B:C units shall be provided on all tank trucks or other vehicles used for transporting and/or dispensing flammable or combustible liquids.

(5) Dispensing liquids.

(a) Areas in which flammable or combustible liquids are transferred at the same time, in quantities greater than 5 gallons from one tank or container to another tank or container, shall be separated from other operations by 25-foot distance or by construction having a fire-resistance of at least 1 hour. Drainage or other means shall be provided to control spills. Adequate natural or mechanical ventilation shall be provided to maintain the concentration of flammable vapor at or below 10 percent of the lower flammable limit.

(b) Transfer flammable liquids from one container to another shall be done only when containers are electrically interconnected (bonded).

(c) Flammable or combustible liquids shall be drawn from or transferred into vessels, containers, or tanks within a building or outside only through a closed piping system, from safety cans, by means of a device drawing through the top, or from a container, or portable tanks, by gravity or pump, through an approved self-closing valve. Transferring by means of air pressure on the container or portable tank is prohibited.

(d) The dispensing units shall be protected against collision damage.

(e) Dispensing devices and nozzles for flammable liquids shall be of an approved type, as required by WAC 296-24-33015.

(6) Handling liquids at point of final use.

(a) Flammable liquids shall be kept in closed containers when not actually in use.

(b) Leakage or spillage of flammable or combustible liquids shall be disposed of promptly and safely.

(c) Flammable liquids shall be used only where there are no open flames or other sources of ignition within 50 feet of the operation, unless conditions warrant greater clearance.

(7) Service and refueling areas.

(a) Flammable or combustible liquids shall be stored in approved closed containers, in tanks located underground, or in aboveground portable tanks.

(b) The tank trucks shall comply with the requirements covered in the Standard for Tank Vehicles for Flammable and Combustible Liquids, NFPA No. 385-1977.

(c) The dispensing hose shall be an approved type.

(d) The dispensing nozzle shall be an approved automatic-closing type.

(e) Underground tanks shall not be abandoned.

(f) Clearly identified and easily accessible switch(es) shall be provided at a location remote from dispensing

devices to shut off the power to all dispensing devices in the event of an emergency.

(g)(i) Heating equipment of an approved type may be installed in the lubrication or service area where there is no dispensing or transferring of flammable liquids, provided the bottom of the heating unit is at least 18 inches above the floor and is protected from physical damage.

(ii) Heating equipment installed in lubrication or service areas, where flammable liquids are dispensed, shall be of an approved type for garages, and shall be installed at least 8 feet above the floor.

(h) There shall be no smoking or open flames in the areas used for fueling, servicing fuel systems for internal combustion engines, receiving or dispensing of flammable or combustible liquids.

(i) Conspicuous and legible signs prohibiting smoking shall be posted.

(j) The motor of any equipment being fueled shall be shut off during the fueling operation.

(k) Each service or fueling area shall be provided with at least one fire extinguisher having a rating of not less than 20BC located so that an extinguisher will be within 75 feet of each pump, dispenser, underground fill pipe opening, and lubrication or service area.

**AMENDATORY SECTION** (Amending WSR 96-24-051, filed 11/27/96, effective 2/1/97)

**WAC 296-155-655 General protection requirements.**

(1) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(2) Underground installations.

(a) The location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be located prior to opening an excavation.

(b) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

(c) When excavation operations approach the location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(d) While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.

(3) Access and egress.

(a) Structural ramps.

(i) Structural ramps that are used solely by employees as a means of access or egress from excavations shall be designed by a competent person. Structural ramps used for access or egress of equipment shall be designed by a competent person qualified in structural design, and shall be constructed in accordance with the design.

(ii) Ramps and runways constructed of two or more structural members shall have the structural members connected together to prevent displacement.

(iii) Structural members used for ramps and runways shall be of uniform thickness.

(iv) Cleats or other appropriate means used to connect runway structural members shall be attached to the bottom of the runway or shall be attached in a manner to prevent tripping.

(v) Structural ramps used in lieu of steps shall be provided with cleats or other surface treatments on the top surface to prevent slipping.

(b) Means of egress from trench excavations. A stairway, ladder, ramp or other safe means of egress shall be located in trench excavations that are 4 feet (1.22 m) or more in depth so as to require no more than 25 feet (7.62 m) of lateral travel for employees.

(4) Exposure to vehicular traffic. Employees exposed to public vehicular traffic shall be provided with, and shall wear, warning vests or other suitable garments marked with or made of reflectorized or high-visibility material.

(5) Exposure to falling loads. No employee shall be permitted underneath loads handled by lifting or digging equipment. Employees shall be required to stand away from any vehicle being loaded or unloaded to avoid being struck by any spillage or falling materials. Operators may remain in the cabs of vehicles being loaded or unloaded when the vehicles are equipped, in accordance with WAC 296-155-610 (2)(g), to provide adequate protection for the operator during loading and unloading operations.

(6) Warning system for mobile equipment. When mobile equipment is operated adjacent to an excavation, or when such equipment is required to approach the edge of an excavation, and the operator does not have a clear and direct view of the edge of the excavation, a warning system shall be utilized such as barricades, hand or mechanical signals, or stop logs. If possible, the grade should be away from the excavation.

(7) Hazardous atmospheres.

(a) Testing and controls. In addition to the requirements set forth in parts B-1, C, and C-1 of this chapter (296-155 WAC) to prevent exposure to harmful levels of atmospheric contaminants and to assure acceptable atmospheric conditions, the following requirements shall apply:

(i) Where oxygen deficiency (atmospheres containing less than 19.5 percent oxygen) or a hazardous atmosphere exists or could reasonably be expected to exist, such as in excavations in landfill areas or excavations in areas where hazardous substances are stored nearby, the atmospheres in the excavation shall be tested before employees enter excavations greater than 4 feet (1.22 m) in depth.

(ii) Adequate precautions shall be taken to prevent employee exposure to atmospheres containing less than 19.5 percent oxygen and other hazardous atmospheres. These precautions include providing proper respiratory protection or ventilation in accordance with parts B-1 and C of this chapter respectively.

(iii) Adequate precaution shall be taken such as providing ventilation, to prevent employee exposure to an atmosphere containing a concentration of a flammable gas in excess of ((20)) 10 percent of the lower flammable limit of the gas.

(iv) When controls are used that are intended to reduce the level of atmospheric contaminants to acceptable levels, testing shall be conducted as often as necessary to ensure that the atmosphere remains safe.

(b) Emergency rescue equipment.

(i) Emergency rescue equipment, such as breathing apparatus, a safety harness and line, or a basket stretcher, shall be readily available where hazardous atmospheric conditions exist or may reasonably be expected to develop during work in an excavation. This equipment shall be attended when in use.

(ii) Employees entering bell-bottom pier holes, or other similar deep and confined footing excavations, shall wear a harness with a lifeline securely attached to it. The lifeline shall be separate from any line used to handle materials, and shall be individually attended at all times while the employee wearing the lifeline is in the excavation.

Note: See chapter 296-62 WAC, Part M for additional requirements applicable to confined space operations.

(8) Protection from hazards associated with water accumulation.

(a) Employees shall not work in excavations in which there is accumulated water, or in excavations in which water is accumulating, unless adequate precautions have been taken to protect employees against the hazards posed by water accumulation. The precautions necessary to protect employees adequately vary with each situation, but could include special support or shield systems to protect from cave-ins, water removal to control the level of accumulating water, or use of a safety harness and lifeline.

(b) If water is controlled or prevented from accumulating by the use of water removal equipment, the water removal equipment and operations shall be monitored by a competent person to ensure proper operation.

(c) If excavation work interrupts the natural drainage of surface water (such as streams), diversion ditches, dikes, or other suitable means shall be used to prevent surface water from entering the excavation and to provide adequate drainage of the area adjacent to the excavation. Excavations subject to runoff from heavy rains will require an inspection by a competent person and compliance with subdivisions (a) and (b) of this subsection.

(9) Stability of adjacent structures.

(a) Where the stability of adjoining buildings, walls, or other structures is endangered by excavation operations, support systems such as shoring, bracing, or underpinning shall be provided to ensure the stability of such structures for the protection of employees.

(b) Excavation below the level of the base or footing of any foundation or retaining wall that could be reasonably expected to pose a hazard to employees shall not be permitted except when:

(i) A support system, such as underpinning, is provided to ensure the safety of employees and the stability of the structure; or

(ii) The excavation is in stable rock; or

(iii) A registered professional engineer has approved the determination that the structure is sufficiently removed from

the excavation so as to be unaffected by the excavation activity; or

(iv) A registered professional engineer has approved the determination that such excavation work will not pose a hazard to employees.

(c) Sidewalks, pavements, and appurtenant structure shall not be undermined unless a support system or another method of protection is provided to protect employees from the possible collapse of such structures.

(10) Protection of employees from loose rock or soil.

(a) Adequate protection shall be provided to protect employees from loose rock or soil that could pose a hazard by falling or rolling from an excavation face. Such protection shall consist of scaling to remove loose material; installation of protective barricades at intervals as necessary on the face to stop and contain falling material; or other means that provide equivalent protection.

(b) Employees shall be protected from excavated or other materials or equipment that could pose a hazard by falling or rolling into excavations. Protection shall be provided by placing and keeping such materials or equipment at least 2 feet (.61 m) from the edge of excavations, or by the use of retaining devices that are sufficient to prevent materials or equipment from falling or rolling into excavations, or by a combination of both if necessary.

(11) Inspections.

(a) Daily inspections of excavations, the adjacent areas, and protective systems shall be made by a competent person for evidence of a situation that could result in possible cave-ins, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions. An inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Inspections shall also be made after every rainstorm or other hazard increasing occurrence. These inspections are only required when employee exposure can be reasonably anticipated.

(b) Where the competent person finds evidence of a situation that could result in a possible cave-in, indications of failure of protective systems, hazardous atmospheres, or other hazardous conditions, exposed employees shall be removed from the hazardous area until the necessary precautions have been taken to ensure their safety.

(12) Fall protection.

(a) Walkways shall be provided where employees or equipment are required or permitted to cross over excavations. Guardrails which comply with chapter 296-155 WAC, Part K shall be provided where walkways are 4 feet or more above lower levels.

(b) Adequate barrier physical protection shall be provided at all remotely located excavations. All wells, pits, shafts, etc., shall be barricaded or covered. Upon completion of exploration and similar operations, temporary wells, pits, shafts, etc., shall be backfilled.



**WSR 99-17-095**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-129—Filed August 17, 1999, 12:09 p.m.]

Date of Adoption: August 7, 1999.

Purpose: Amend rule relating to license issuance fees.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-55-115.

Statutory Authority for Adoption: SB 5020, RCW 75.08.090.

Adopted under notice filed as WSR 99-13-117 on June 16, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 13, 1999

Debbie Nelson

for Kelly White, Chairman  
 Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

**WAC 220-55-115 Recreational license dealer's fees.**  
 ((Dealer fees are defined as fees in excess of license fees.

(H)) License dealers may charge ((an agent fee of one dollar for the issuance of each license document and fifty cents for the issuance of each separate tag, permit, special hunting permit application, and the state migratory waterfowl stamp sold manually.

(2) License dealers with point-of-sale equipment may charge an agent fee of one dollar for each license transaction and fifty cents for each state migratory waterfowl stamp.

(3) License dealers must also collect transaction fees as calculated by the point-of-sale system. These transaction fees are two dollars and fifty cents for five or fewer licenses and license packages, and must be remitted to the department with the license fee remittance)) a license issuance fee as follows:

(1) Two dollars for the issuance of any of the following fishing licenses:

- (a) A combination license.
- (b) A saltwater license.
- (c) A freshwater license.

(d) A temporary fishing license when issued in the form of a standard recreational fishing license document.

(e) A family fishing weekend license.

(f) A personal use shellfish and seaweed license when issued in the form of a standard recreational fishing license document.

(g) Notwithstanding the provisions of this subsection, if any two or more licenses are issued on the same standard recreational fishing license document, the license issuance fee for the document is two dollars.

(2) Two dollars for the issuance of any of the following hunting licenses:

(a) A big game combination license.

(b) A small game license.

(c) A three-consecutive day small game license.

(d) Notwithstanding the provisions of this subsection, if any two or more licenses are issued on the same standard recreational hunting license document, the license issuance fee for the document is two dollars.

(3) Two dollars for the issuance of a fish and wildlife lands vehicle use permit when issued separately from an annual freshwater, saltwater or combination fishing license, or separately from an annual small game hunting license, big game combination license, or trapping license. Notwithstanding the provisions of this subsection, if the fish and wildlife lands vehicle use permit is issued with any other license issued in the form of a standard recreational hunting or fishing license document, the license issuance fee for the document is two dollars.

(4) One dollar for the issuance of any of the following shellfish and seaweed licenses or tags:

(a) A personal use shellfish and seaweed license when issued in the form of a wearable license.

(b) A wearable shellfish tag issued with a combination fishing license.

(c) A wearable shellfish tag issued with a personal use shellfish and seaweed license when the license is issued in the form of a standard recreational fishing license document.

(d) A two-day personal use shellfish and seaweed license.

(5) Fifty cents for the issuance of any of the following:

(a) A deer, elk, bear, cougar, mountain goat, mountain sheep, moose, or turkey transport tag.

(b) A temporary fishing license when issued as a stamp.

(c) A state of Washington migratory bird stamp.

(d) A Western Washington pheasant permit.

(e) An application for a special permit hunt.

**WSR 99-17-096**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-128—Filed August 17, 1999, 12:12 p.m.]

Date of Adoption: August 7, 1999.

Purpose: Provide mechanism for funding enhancement accounts.

PERMANENT

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-20-070, 220-140-050, and 232-12-072.

Statutory Authority for Adoption: RCW 77.32.440.

Adopted under notice filed as WSR 99-13-054 on June 10, 1999.

Changes Other than Editing from Proposed to Adopted Version: Adjustments made to WAC 220-20-070 and 220-140-050 to reflect consistencies of titles with RCW 75.54-140 and 75.50.100.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

August 13, 1999

Debbie Nelson  
for Kelly White, Chairman  
Fish and Wildlife Commission

**AMENDATORY SECTION** (Amending Order 98-263, filed 12/31/98, effective 1/1/99)

**WAC 220-20-070 Recreational fisheries enhancement account—Funding.** (~~Pursuant to RCW 75.54.140, effective January 1, 1999, the recreational fisheries enhancement account (account) shall be funded as follows:)~~)

The department shall deposit into the recreational fisheries enhancement (~~group~~) account (~~((8.505% of the funds received from the sale of each saltwater license and freshwater, saltwater, shellfish combination license, but not including licenses issued to youths and seniors)) the sum of \$1,415,000 during fiscal year 2000, based on 127,000 annual license holders and 29,000 short-term license holders fishing for salmon and marine bottomfish in Puget Sound. Beginning in fiscal year 2001, and each year thereafter, the deposit into the recreational fisheries enhancement account shall be adjusted annually to reflect the actual number of license holders fishing for salmon and marine bottomfish in Puget Sound based on an annual survey from the previous license year conducted by the department beginning with the April 1, 1999, to March 31, 2000, license year survey.~~)

**AMENDATORY SECTION** (Amending Order 98-263, filed 12/31/98, effective 1/1/99)

**WAC 220-140-050 Funding the ((fisheries)) regional fisheries enhancement group account.** (~~Pursuant to RCW~~

~~75.50.100, effective January 1, 1999, the dedicated fisheries regional enhancement group account (account) shall be funded as follows:))~~

The department shall deposit into the regional fisheries enhancement group account (~~((1.927% of the funds received from the sale of each saltwater license and freshwater, saltwater, shellfish combination license, but not including licenses issued to youths and seniors)) the sum of \$297,500 during fiscal year 2000, based on 297,500 food fish anglers. Beginning in fiscal year 2001, and each year thereafter, the deposit into the regional fisheries enhancement group account shall be adjusted annually to reflect the actual number of license holders fishing for food fish based on an annual survey from the previous license year conducted by the department beginning with the April 1, 1999, to March 31, 2000, license year survey. Additional deposits to the regional fisheries enhancement group account will be made pursuant to RCW 75.50.100.~~)

**AMENDATORY SECTION** (Amending Order 99-02, filed 1/13/99, effective 2/13/99)

**WAC 232-12-072 Eastern Washington pheasant enhancement—Funding level determination.** The department shall deposit into the Eastern Washington pheasant enhancement account (~~((26.06% of the funds received from the sale of small game licenses)) the sum of \$385,000 during fiscal year 2000, based on 38,500 Eastern Washington pheasant hunters. Beginning in fiscal year 2001, and each year thereafter, the deposit into the Eastern Washington pheasant enhancement account shall be adjusted annually to reflect the actual number of license holders hunting for pheasant in Eastern Washington based on a survey of licensed hunters from the previous license year.~~)

WSR 99-17-111

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Medical Assistance Administration)

[Filed August 18, 1999, 11:00 a.m.]

Date of Adoption: August 18, 1999.

Purpose: The department originally intended to amend WAC 388-86-112 and 388-550-2300, but decided instead to put all WAC sections related to physical medicine and rehabilitation (PM&R) into chapter 388-550 WAC, Hospital services under a subheading "Acute Physical Medicine and Rehabilitation (Acute PM&R)." Combining these sections into one new subheading will make it easier for staff and other users to find the information they need. At the same time, the department is updating policy and payment methodology to reflect current practice. WAC 388-86-112 and 388-550-2300 are being repealed to eliminate duplication.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-86-112 and 388-550-2300.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Adopted under notice filed as WSR 99-14-038 on June 30, 1999.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 9, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 0, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 9, Amended 0, Repealed 2.

Effective Date of Rule: Thirty-one days after filing.

August 18, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

## ACUTE PHYSICAL MEDICINE AND REHABILITATION (ACUTE PM&R)

### NEW SECTION

**WAC 388-550-2501 Acute physical medicine and rehabilitation (acute PM&R) program—General.** Acute physical medicine and rehabilitation (acute PM&R) is a twenty-four-hour inpatient comprehensive program of integrated medical and rehabilitative services during the acute phase of rehabilitation. It requires prior authorization by medical assistance administration (MAA).

(1) A multidisciplinary team coordinates individualized client acute PM&R services at an MAA-approved rehabilitation facility to achieve the following for the client:

- (a) Improved health and welfare; and
- (b) Maximum physical, social, psychological and vocational potential.

(2) MAA determines the length of stay based on individual cases and community standards of care for acute PM&R services.

(3) When MAA's authorized acute period of rehabilitation ends, the provider transfers the client to a more appropriate level of care. Therapies may continue to help the client achieve maximum potential through other covered programs such as:

- (a) Home health services (see subchapter II of chapter 388-551 WAC);
- (b) Nursing facilities (see chapter 388-97 WAC); or
- (c) Outpatient hospital services (see chapter 388-550 WAC).

### NEW SECTION

**WAC 388-550-2511 Acute PM&R definitions.** The following definitions and abbreviations and those found in

WAC 388-500-0005 and 388-550-1050 apply to this subchapter. Defined words and phrases are bolded in the text. In case of any conflicts, this section prevails for this subchapter.

"**Accredit**" (or "**Accreditation**") is a term used by nationally recognized health organizations, such as CARF, to state a facility meets community standards of medical care.

"**Acute**" means an intense medical episode, not longer than two months.

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

"**CARF.**" The official name for The Rehabilitation Accreditation Commission of Tucson, Arizona. CARF is a national private agency that develops and maintains current, "field-driven" (community) standards through surveys and **accreditations** of rehabilitation facilities.

"**Level A services**" mean hospital-based **acute** rehabilitation services for medically stable clients with conditions that require complex nursing, medical and therapy needs as listed in WAC 388-550-2551(2). Such conditions include, but are not limited to, traumatic brain injuries, spinal cord injuries, and complicated bilateral amputations.

"**Level B services**" mean hospital- or nursing facility-based **acute** rehabilitation services for medically stable clients with new or exacerbated multiple sclerosis, mild head injuries, spinal cord injuries following the removal of the thoracic lumbar sacral orthosis (TLSO), and other medical conditions that require less complex nursing, medical and therapy needs as listed in WAC 388-550-2551(3).

### NEW SECTION

**WAC 388-550-2521 Client eligibility requirements for acute PM&R services.** (1) Clients in any of the following medical programs are eligible to receive acute PM&R Level A and Level B services:

- (a) Children's health (V);
- (b) Categorically needy program (CNP);
- (c) Categorically needy program - qualified Medicare beneficiary (CNP-QMB);
- (d) General assistance - determination pending for disability (GAX);
- (e) Limited casualty program - medically needy program (LCP-MNP); and
- (f) Medically needy program - qualified Medicare beneficiary (MNP-QMB).

(2) Clients in any of the following programs may receive only **Level A** hospital-based services:

- (a) Medically indigent program (MIP) - emergency hospital-based and emergency transportation services. These clients may only receive services when:

- (i) They are transferred directly from an **acute** hospital stay; and

PERMANENT

(ii) The client's **acute PM&R** needs are directly related to the emergency medical need for the hospital stay;

(b) General assistance unemployable (GAU - No out-of-state care);

(c) CNP - emergency medical only;

(d) LCP-MNP - emergency medical only; and

(e) Alcoholism and drug addiction treatment and support act (ADATSA) (GAW).

(3) Clients in programs not listed in this section are not covered for **acute PM&R** services. See WAC 388-529-0100 and 388-529-0200 for scope of medical coverage.

(4) If a client is enrolled in an MAA Healthy Options managed care plan at the time of acute care admission, that plan pays for and coordinates **acute PM&R** services as appropriate.

### NEW SECTION

**WAC 388-550-2531 Requirements for becoming an MAA Level A or B acute PM&R provider.** (1) To provide **acute PM&R** services to medical assistance clients, a provider obtains MAA approval for the facility. To obtain MAA approval for the facility, the provider must:

(a) Submit a letter of request;

(b) Include evidence that confirms the requirements listed in subsection (2) and (3) of this section are met; and

(c) Send the letter and documentation to:

Acute PM&R Program Manager  
Division of Health Services Quality Support  
Medical Assistance Administration  
PO Box 45506  
Olympia WA 98504-5506

(2) In order to be approved by MAA as a **Level A** provider, a hospital must be:

(a) Medicare certified;

(b) **Accredited** by the joint commission on **accreditation** of hospital organizations (JCAHO);

(c) Licensed by department of health (DOH) as an acute care hospital (as defined by DOH in WAC 246-310-010, Definitions);

(d) **CARF accredited** for comprehensive integrated inpatient rehabilitation programs; and

(e) Operating per the standards set by DOH, excluding the certified rehabilitation registered nurse (CRRN) requirement, in either:

(i) WAC 246-976-830, Level I trauma rehabilitation designation; or

(ii) WAC 246-976-840, Level II trauma rehabilitation designation.

(3) In order to be approved by and contracted with MAA as a **Level B** provider, a facility must be:

(a) Medicare certified;

(b) Licensed by DOH as an acute care hospital (as defined by DOH in WAC 246-310-010, Definitions) or nursing facility;

(c) **CARF accredited** for comprehensive integrated inpatient rehabilitation programs;

(d) Contracted under MAA's selective contracting program, if in a selective contracting area, unless exempted from the requirement by MAA; and

(e) Operating per the standards set by DOH in WAC 246-976-840, Level II trauma rehabilitation designation, excluding the CRRN requirement.

(4) To obtain conditional contract approval, the applying facility must meet the criteria in subsections (1), (2) and/or (3) of this section, excluding the **CARF accreditation** requirement listed in section (2)(c) and (3)(c) of this section. The facility must:

(a) Actively operate under **CARF** standards; and

(b) Have begun the process of obtaining full **CARF accreditation**.

(5) MAA will revoke a conditional contract approval if the facility does not obtain full **CARF accreditation** within twelve months of the conditional approval date by MAA.

### NEW SECTION

**WAC 388-550-2541 Quality of care for acute PM&R clients through audits and reviews.** (1) To ensure quality of care, MAA may conduct an on-site review of any MAA-approved **acute PM&R** facility. See WAC 388-501-0130, Administrative controls, for additional information on audits conducted by department staff.

(2) In addition, MAA-approved **Level B** nursing facilities are subject to regular on-site surveys conducted by the department's aging and adult services administration (AASA).

### NEW SECTION

**WAC 388-550-2551 How MAA determines client placement in Level A or B acute PM&R.** (1) At the time of authorization, MAA determines the most appropriate client placement on a case-by-case basis:

(a) In the level of care (level A or B);

(b) In the least restrictive environment; and

(c) At the lowest cost to MAA.

(2) Examples of client conditions suitable for **Level A** placement include:

(a) Cognitive and/or motor deficits;

(b) Brain damage from infectious brain diseases;

(c) Quadriplegia or paraplegia;

(d) Skin flap grafts for decubitus ulcers that need close observation by a surgeon, when the client is ready to mobilize or be upright in a chair;

(e) Extensive burns requiring complex medical care and debridement;

(f) Bilateral limb loss requiring close observation when the client has complex medical needs;

(g) Multiple trauma with complicated orthopedic conditions and neurological deficits; or

(h) Stroke with resulting hemiplegia or severe cognitive deficits, including speech and swallowing deficits requiring close observation with radiological examination.

(3) Examples of client conditions suitable for **Level B** placement include:

- (a) New strokes when medically stable;
- (b) Newly diagnosed or recently exacerbated multiple sclerosis with new loss of function;
- (c) New mild head injury when medically stable; or
- (d) Spinal cord injuries following the removal of a thoracic lumbar sacral orthosis after the client's first phase of acute rehabilitation.

**NEW SECTION**

**WAC 388-550-2561 MAA's requirements for authorizing acute PM&R services.** (1) The patient care coordinator or the attending physician must call the MAA clinical consultation team before admitting an MAA client.

(2) The patient care coordinator or attending physician must provide to MAA objective information showing that:

(a) **Acute PM&R** treatment would effectively enable the client to obtain a greater degree of self-care, independence, or both;

(b) The client's medical condition requires that intensive twenty-four-hour inpatient comprehensive **acute PM&R** services be provided in an MAA-approved **acute PM&R** facility; and

(c) The client suffers from severe disabilities including, but not limited to, motor and/or cognitive deficits.

(3) Clients must be medically stable and show evidence that they are physically and cognitively ready to participate in the rehabilitation program. They must be willing and capable to participate at least three hours per day, seven days per week, in **acute PM&R** activities.

(4) For extension of authorization, the facility's rehabilitation staff must provide adequate medical justification, including significant observable improvement in the client's condition, to MAA prior to the expiration of the initial approved stay. If MAA denies the extension, the client must be transferred to an appropriate lower level of care as defined in WAC 388-550-2501(3).

(5) MAA may authorize administrative day reimbursement for clients who do not meet requirements described in this section, or who stay in the facility longer than the community standard's length of stay. The administrative day rate is the statewide Medicaid average daily nursing facility rate as determined by the department.

**NEW SECTION**

**WAC 388-550-3381 How MAA pays acute PM&R facilities for Level A services.** (1) A **Level A** rehabilitation facility is paid by MAA according to:

(a) The individual hospital's current ratio of costs-to-charges as described in WAC 388-550-4500, Payment method—RCC; and

(b) MAA's fee schedule as described in WAC 388-550-6000, Payment—Outpatient hospital services.

(2) **Level A** inpatient **acute PM&R** room and board includes, but is not limited to:

(a) Facility use;

(b) Medical social services;

(c) Bed and standard room furnishings; and

(d) Nursing services.

**NEW SECTION**

**WAC 388-550-3401 How MAA pays acute PM&R facilities for Level B services.** (1) MAA pays a contracted **Level B** facility for **acute PM&R** services at a fixed daily rate established by MAA.

(2) MAA may make cost inflation adjustments to the maximum daily rate by using the same inflation factor and schedule that MAA uses to pay independent hospitals. This diagnosis-related group (DRG) reimbursement method is described in WAC 388-550-3450(5)(a).

(3) MAA pays the rate in effect at the time of a client's admission to a facility.

(4) Equipment and services identified in the **Level B** contract as excluded from the fixed daily rate are paid to the MAA provider that directly provides the equipment or services.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-550-2300 Payment—PM&R.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-86-112 Physical medicine rehabilitation evaluation and treatment.

**WSR 99-17-117**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed August 18, 1999, 11:42 a.m., effective December 1, 1999]

Date of Adoption: August 18, 1999.

**Purpose:** This rule proposal was developed over a year-and-a-half effort by the Logging Advisory Committee, with members representing management, labor, equipment suppliers, other government entities, and the department. As a part of the Governor's Executive Order 97-02 on Regulatory Reform, chapter 296-54 WAC, Safety standards for logging operations, is being adopted in order to be consistent with current local industry practice and technology; reorganize the contents to make it easier to find specific requirements; rewrite for plain language; and update rules to be identical to or consistent with OSHA logging rules.

**Citation of Existing Rules Affected by this Order:**  
**AMENDED SECTIONS:** Chapter 296-54 WAC, **Safety standards for logging operations.** WAC 296-54-501 Scope and application, 296-54-503 Variance, 296-54-505 Definitions

applicable to this chapter, 296-54-507 Management's responsibility, 296-54-509 Employee's responsibility, 296-54-511 Personal protective equipment, 296-54-513 Safety education, training and first-aid requirements, 296-54-515 General requirements, 296-54-517 Camps, 296-54-519 Motor vehicles, 296-54-521 Transportation of crews by use of speeders and trailers, 296-54-523 Methods of crew transportation other than those specified, 296-54-527 Truck roads, 296-54-529 Falling and bucking—General, 296-54-531 Power saws and power equipment, 296-54-533 Falling and bucking—Springboards and tree jacking, 296-54-535 Tree pulling, 296-54-537 Mechanized falling, 296-54-539 Climbing equipment and passline, 296-54-541 Selection of spar, tail and intermediate trees, 296-54-543 General requirements, 296-54-545 Rigging—Wood spar trees, 296-54-547 Rigging—Tail tree, 296-54-549 Lines, straps and guyline attachments—Steel spars, 296-54-551 Yarding, loading, skidding and chipping machines—General requirements, 296-54-553 Yarding, loading and skidding machines—Mobile towers and boom-type yarding and loading machines, 296-54-555 Yarding—General requirements, 296-54-557 Yarding—Tractors, skidders and rough terrain log loaders (to include feller bunchers and tree shears), 296-54-559 Yarding—Helicopters and helicopter cranes, 296-54-561 Log loading—General requirements, 296-54-563 Log loading—Special requirements, 296-54-565 Log loading—Self-loading log trucks, 296-54-567 Motor truck log transportation—General requirements, 296-54-569 Motor truck log transportation—Brake requirements, 296-54-571 Motor truck log transportation—Trailer hitches and safety chains, 296-54-573 Motor truck log transportation—Reaches and bunks, 296-54-575 Motor truck log transportation—Stakes, stake extensions and chock blocks, 296-54-577 Motor truck log transportation—Wrappers and binders, 296-54-579 Motor truck log transportation—Miscellaneous requirements, 296-54-581 Motor truck log transportation—Steered trailers, 296-54-583 Stationary log truck trailer loading, 296-54-585 Log unloading, booms, and rafting grounds—Storage and sorting areas—General requirements, 296-54-587 Water dumps, 296-54-589 Boom and rafting grounds, 296-54-591 Boats and mechanical devices on waters, 296-54-593 Dry land sorting and storage, 296-54-595 Railroad operations, 296-54-597 Railroad maintenance—Loading or unloading, 296-54-601 Signals and signal systems, 296-54-603 Electric signal systems, 296-54-605 Radio systems used for voice communication, activation of audible signals, or equipment, 296-54-607 Radio signal systems—Specifications and test procedures, 296-54-99002 Appendix 1—Signals, 296-54-99003 Appendix 2—Sample minimum lockout/tagout procedure, and 296-54-99004 Appendix 3—Industry consensus standards.

**REPEALED SECTIONS: Chapter 296-54 WAC, Safety standards for logging operations.** WAC 296-54-525 Railroad construction and maintenance, and 296-54-599 Truck and equipment maintenance shops.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, and [49.17].050.

Adopted under notice filed as WSR 99-08-072 on April 5, 1999.

Changes Other than Editing from Proposed to Adopted Version: **Changes to Chapter 296-54 WAC, Safety standards for logging operations.**

**WAC 296-54-505 Definitions.**

- Added examples to the definition of "in the clear" for clarification.
- Added clarifying language to the definition of "logging operations."
- Added clarifying language to the definition of "machine."
- Added clarifying language to the definition of "new job site."
- Added clarifying language to the definition of "long sticks."
- Added clarifying language to the definition of "swing cut."
- Added a definition for "mainline train" that had been inadvertently left out of the proposal.
- Added a definition for the term "should."
- Added clarifying language to the definition of "running line/running rope."
- Added clarifying language to the definition of "spar/spar tree."
- Added "or D" to the definition of "strap socket."
- Added clarifying language to the definition of "tie back." This change was made based on public comment.
- Inserted an illustration to follow the definition of "twister." This change was made based on public comment.

**WAC 296-54-509 Employee's responsibility.**

- Added language relating to employees making prompt report to supervision of each industrial injury or occupational illness, regardless of the degree of severity. This change was made based on public comment.

**WAC 296-54-51140 Hand protection.**

- Added a subsection relating to hand protection that must be maintained in serviceable condition. This change was made based on public comment.

**WAC 296-54-51160 Leg protection.**

- Added a subsection relating to leg protection that must be maintained in serviceable condition. This change was made based on public comment.

**WAC 296-54-51170 Foot protection.**

- Added the words "cut resistant" in front of foot wear and clarified the language relating to a running chain saw to be at-least-as-effective-as the federal standard.
- Added a subsection relating to foot protection that must be maintained in serviceable condition. This change was made based on public comment.
- Deleted the words "waterproof or water-repellant." This change was made based on public comment.

**WAC 296-54-51190 Highly visible clothing.**

- Replace the word "contrasting" with "high visibility." This change was made based on public comment.
- Added an "a" that had been inadvertently left out.

**WAC 296-54-513 Arrangement of work areas and emergency contact.**

- Added a new subsection to read, "Mechanics or other employees must not be assigned to work on equipment by themselves when there is a probability of a fall from elevated work locations or equipment. Also, if the work is of such nature that heavy parts require moving, or there is a probability that anything heavy could fall on the person, there must be another person in the immediate area to render assistance." This change was made based on public comment.
- Clarified the language in the note after subsection (5) to avoid confusion.
- Clarified the language in WAC 296-54-513 (9)(d) to avoid confusion.
- Renumbered section.

**WAC 296-54-515 Accident prevention program.**

- Deleted subdivision (3)(g). This change was made based on public comment.

**WAC 296-54-51510 Safety and health meetings.**

- Changed the word "shall" to "must" in subsection (3).

**WAC 296-54-51520 First-aid training.**

- Deleted two bullets that included loss of mental functioning and drug overdose in the requirements for first-aid training. This change was made based on public comment.

**WAC 296-54-517 Lockout/tagout procedures.**

- Renumbered section.

**WAC 296-54-521 Inspection and repair of equipment and vehicles.**

- In subsection (1), deleted the words "in writing." This change was made based on public comment.

**WAC 296-54-529 Seat belts.**

- Clarified the language to be consistent with the rest of the standard.

**WAC 296-54-531 Motor vehicles.**

- In subsection (2), replaced "crew bus" with "school bus type." This change was made based on public comment.

**WAC 296-54-53910 Falling and bucking—Falling.**

- Added language relating to when backcuts must be as level as possible. This language was inadvertently left out of the proposal and is a current requirement.

**WAC 296-54-545 Climbing equipment and passline.**

- Added a new subsection to read, "A climber's rope must encircle the tree before the climber leaves the ground, except when the climber is riding the passline." This language was inadvertently left out of the proposal and was a proposed requirement in WAC 296-54-701.
- Renumbered section.

**WAC 296-54-547 Rigging—General.**

- Added the words "is prohibited" that were inadvertently left out of the proposal.

**WAC 296-54-54730 Rigging—Shackles.**

- Clarified the language for consistency.

- Added the word "slackline" to subsection (2) for clarity and consistency.

**WAC 296-54-54740 Rigging—Straps.**

- Clarified the language for consistency.

**WAC 296-54-54750 Rigging—Blocks.**

- In subsection (4) replaced the word "trees" with "spars" for clarity. Also, added clarifying language which reads, "pins must be secured with a nut and cotter pin or nut and molle" for consistency. This change was made based on public comment.

**WAC 296-54-553 Metal spars.**

- After subsection (4), added a clarifying note explaining that items (d) and (e) are lists of options. This change was made based on public comment.
- Added clarifying language to subsection (4)(d).

**WAC 296-54-557 Wire rope.**

- Added an illustration on wire rope.

**WAC 296-54-55730 Wire rope—Attaching and fastenings.**

- Corrected the reference by relocating it.

**WAC 296-54-561 Guylines.**

- Clarified language and reformatted subsection (3).

**WAC 296-54-563 Guying tail/lift trees.**

- Clarified language in subsection (2) to avoid confusion.
- Added language from WAC 296-54-561 (5)(b) for consistency.

**WAC 296-54-565 Intermediate support trees.**

- In subsection (1)(a), replaced "at least" with "approximately." This change was made based on public comment.
- In subsection (1)(b), added the words "support line" for clarity.
- Added language from WAC 296-54-561 (3)(d) and (5)(b) for consistency.

**WAC 296-54-567 Rigging skylines.**

- In subsection (4), deleted the words "if the carriage runs over the extension" for clarity.
- Added a reference to subsection (6)(a) for clarity.
- Added the words "rigged" and "lift" for clarity and consistency in subsection (7).

**WAC 296-54-569 Anchoring.**

- In subsection (7), added the words "wood spars" for clarity.

**WAC 296-54-573 Logging machines—General.**

- Added a clarifying note after subsection (5) that reads, "This requirement includes the loading, securing and unloading of a machine on and off a transport vehicle."
- Clarified the language in subsection (8) for consistency.
- Moved subsection (24) to WAC 296-54-577(13) for better organization of information. This change was made based on public comment.
- In subsection (26), deleted the words "turn of logs" for clarity and added a new subsection (27) to read, "Riding on arches, reaches or turn of logs is prohibited."

- Added a new subsection (31) to read, "Guylines required in rigging spars or towers must be evenly spooled to prevent fouling" for clarity.
- Clarified language in subsection (38).
- Renumbered section.

**WAC 296-54-57315 Logging machines—Exhaust pipes.**

- Clarified the language in subsection (1) relating to spark arrestors.

**WAC 296-54-57345 Logging machines—Moving.**

- Deleted an incorrect reference in subsection (3).

**WAC 296-54-57355 Logging machines—Protective structures for operators.**

- Added a clarifying note at the end of this section relating to the exemption of self-loaders.

**WAC 296-54-575 Landing area.**

- Clarified the language in subsection (1)(a) to avoid confusion. This change was made based on public comment.
- Clarified the language in subsection (1)(d) to avoid confusion. This change was made based on public comment.

**WAC 296-54-577 Yarding, skidding, landing.**

- Added the proposed language from WAC 296-54-573(24) to this section for better organization of information. This change was made based on public comment. Also, changed the last sentence into a separate item and replaced "should" with "must" to make this a constant reminder for employees to maintain a 36-inch clearance.
- Renumbered section.

**WAC 296-54-581 Helicopter logging—General.**

- Clarified the language in subsection (3). This change was made based on public comment.
- Deleted the reference in subsection (8) because the figure that was referenced is being deleted out of Appendix 1—Signals.
- Added a new subsection (9) to read, "Developed hand signals must be clearly communicated and understood by all persons working in the area who may be affected by their use." This change was made to add more flexibility.
- In subsection (13), added the language "used by ground personnel to position loads." This change was made based on public comment.
- Renumbered section.

**WAC 296-54-58130 Helicopter logging—Fueling area.**

- In subsection (7), replaced the word "grounded" with "bonded." This change was made based on public comment.

**WAC 296-54-583 Loading logs.**

- Added new subsection (20) that was inadvertently left out of the proposal. It reads, "Power saws must not be operated on top of loaded logging trucks." This change was made based on public comment.
- Added a clarifying note, which reads, "This does not apply to incidental limbs/knots placed on loads during the normal loading process."

**WAC 296-54-589 Log trucks—General.**

- In subsection (1), added three items to the bullet list of daily inspection requirements. They are bunks,

stakes and bunk blocks. This was done for clarification.

**WAC 296-54-58950 Log trucks—Wrappers and binders.**

- Added a clarifying note relating to nylon straps and ratchet binders in subsection (12).
- Renumbered section.

**WAC 296-54-59520 Trailers used to transport crews.**

- Removed the word "to" in subsection (3) for clarity.

**WAC 296-54-601 Signals and signal systems.**

- Clarified the language in subsection (12) to include voice communication. Also, clarified the language as to when the horn or whistle must be sounded. This change was made based on public comment.
- In subsection (13), added language to read, "or an audible whistle must be sounded from the yarder." This change was made based on public comment.
- In subsection (17), replaced the language with, "(17) When the normal crew configuration consists of two or more persons at the point where chokers are being set, they must each carry an operable transmitter on their person. Only one transmitter is required if:
  - (a) The signal person has no other duties and remains in an area where there are no hazards created by the moving rigging or logs, or
  - (b) The rigging crew is comprised of only one employee."

This change was made based on public comment.

**WAC 296-54-605 Radio systems used for voice communication, activation of audible signals, or control of equipment.**

- In subsection (1), deleted the words "voice or functional" to avoid confusion.
- In subsection (2)(a), deleted the words "or other audible" for clarification and added an "s" to the word "signal."
- In subsection (6), added a reference to point out an illustration.
- In subsection (9), added a reference to point out an illustration.

**WAC 296-54-607 Radio signal systems—Specifications and test procedures.**

- In subsection (3), corrected a reference.

**WAC 296-54-701 Wood spar trees.**

- Corrected a typographical error.

**WAC 296-54-99002 Appendix 1—Signals.**

- Deleted figure 42: Standard hand signals for helicopters.

For better organization of information and requirements the numbering of the following sections was changed:

WAC Number at Proposal	WAC Number at Adoption
296-54-521	296-54-523
296-54-523	296-54-535
296-54-527	296-54-529
296-54-529	296-54-527
296-54-531	296-54-521
296-54-533	296-54-531
296-54-535	296-54-533

PERMANENT



296-54-559	296-54-54770
296-54-703	296-54-584

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 65, Amended 55, Repealed 2; 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 65, Amended 55, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 65, Amended 55, Repealed 2.

Effective Date of Rule: December 1, 1999.

August 18, 1999

Gary Moore

Director

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-501 Scope and application.** ~~((This standard establishes safety practices, means, methods and operations for all types of logging, regardless of the end use of the wood. These types of activities include, but are not limited to, pulpwood and timber harvesting and the logging of sawlogs, veneer bolts, poles, pilings and other forest products. The requirements herein contained do not apply to log handling at sawmills, plywood mills, pulp mills or other manufacturing operations governed by their own specific safety standards.~~

~~These requirements are minimum safety requirements and shall augment other safety standards developed by the department which are of a general nature and apply to all industrial operations such as those contained in the general safety standards, chapter 296-24 WAC; occupational health standards, chapter 296-62 WAC; or others which may be applicable. Regulations adopted by the department concerning certain types of equipment or conditions, such as metal and nonmetallic mines, quarries, pits and crushing operations, chapter 296-61 WAC, and possession, handling and use of explosives, chapter 296-52 WAC shall be complied with when applicable.~~

~~Copies of all society of automotive engineers reports (SAE) referred to in these standards are on file in all regional offices of the department of labor and industries, and may be reviewed by any interested person. Individuals desiring to obtain copies of such material shall arrange to do so directly from the publishers or from other sources. The department of labor and industries will not assume the responsibility of acquiring such material for uses other than its own needs.)~~ This chapter establishes safety practices for all types of logging, log road construction and other forest activities using logging machinery and/or power saws regardless of the end

use of the wood. This chapter does not apply to log handling at sawmills, plywood mills, pulp mills, or other manufacturing operations governed by specific safety standards. This chapter provides minimum safety requirements for the logging industry. The logging industry is also covered by the general safety standards, chapter 296-24 WAC; occupational health standards, chapter 296-62 WAC; or others that may apply. Chapter 296-52 WAC, which covers the possession, handling and use of explosives, applies when explosives are used in logging operations.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-503 Variance.** ~~((The assistant director may, upon receipt of application and after adequate investigation by the department, permit a variation from these requirements when an approved alternate means or manner of protection is provided, which affords an equivalent measure of safety as required by the rule from which a variance is requested.))~~ If an employer finds it impractical to comply with specific requirements of this chapter, the department may permit a variation from the requirements. However, the employer must still provide equal protection by substitute means. To request a variance, write to:

WISHA Services Division—Variance Request  
Department of Labor Industries  
P.O. Box 44648  
Olympia, WA 98504-4648

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-505 Definitions** ~~((applicable to this chapter)).~~ A-frame - a structure made of two independent columns fastened together at the top and separated by a reasonable width at the bottom to stabilize the unit from tipping sideways.

An operation - any place where logging or log related activities are taking place.

Approved - approved by the department of labor and industries.

Arch - any device attached to the back of a vehicle and used for raising one end of logs to facilitate movement.

Authorized person - a person approved or assigned by the employer to perform a specific type of duty(s) or to be at a specific location at a certain time(s).

Backcut (felling cut) - the cut in a felling operation made on the opposite side from the undercut.

Backline - the portion of the haulback that runs between the spar/spar tree and the corner block.

Ballistic nylon - a nylon fabric of high tensile properties designed to provide protection from lacerations.

Barrier - a fence, wall or railing to prevent passage or approach.

Base of tree - that portion of a natural tree not more than three feet above ground level.

Bight of the line - ((any area where a person is exposed to a controlled or uncontrolled moving line)) a hazardous

PERMANENT

zone created by running lines under tension. Any section of a line between the ends.

Binder - a hinged lever assembly for connecting the ends of a wrapper to tighten the wrapper around the load of logs or materials.

Boomboat - any boat used to push or pull logs, booms, bundles, or bags, in booming ground operations.

Boomscooter - a small boat, usually less than fourteen feet in length, equipped with an outboard motor, having directional pushing capabilities of 360 degrees.

Brailing - when tiers of logs, poles, or piles are fastened together with a type of dogline and the ends of the side members are then fastened together for towing.

Brow log - a log or a suitable substitute placed parallel to any roadway at a landing or dump to protect the carrier and facilitate the safe loading or unloading of logs, timber products, or materials.

Buck - means the process of severing a tree into sections (logs or bolts).

Butt - the bottom of the felled part of a tree.

Butt welding - the practice of welding something end to end.

Cable tree thinning - the selective thinning of a timber stand using mobile yarding equipment specifically designed or adapted for the purpose. Cable tree thinning includes skyline, slackline, or modified slackline, overhead cable systems.

Cable yarding - the movement of felled trees or logs from the area where they are felled to the landing on a system composed of a cable suspended from spars and/or towers. The trees or logs may be either dragged across the ground on the cable or carried while suspended from the cable.

Chock - a block, often wedge shaped, which is used to prevent movement; e.g., a log from rolling, a wheel from turning.

Choker - a length of wire rope with attachments for encircling the end of a log to be yarded.

Chunking - to clear nonusable material from a specified area.

Cold deck - a pile of yarded logs left for future removal.

Competent person - one who is capable of identifying hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous.

Corner block - the first block the haulback passes through on its way to the tail block.

Crotch line - two short lines attached to the same ring or shackle, used for loading or unloading.

Cutter - an employee whose primary job is to fall, buck, or limb trees before they are moved to the landing area.

Danger trees - any tree of any height, dead or alive, that presents a hazard to workers because of rot, root, stem or limb damage, lean, or any other observable condition created by natural process or man-made activity.

Dapped - a notch in a timber for receiving part of another timber.

DBH - diameter at breast height.

Deadman - buried log or other object used as an anchor.

Debark - to remove bark from trees or logs. Debark generally denotes mechanical means as opposed to manual peeling.

Deck - a stack of trees or logs.

Designated person - an employee who has the requisite knowledge, training, and experience to perform specific duties.

Directional falling - a mechanical means to control the direction of falling timber.

Dog line - type of line used to fasten logs or timber products together by the use of dogs.

Domino felling - the partial cutting of multiple trees which are left standing and then pushed over with a pusher tree.

Donkey - any machine with a series of drums used to yard logs.

Double ended logs - two logs end to end on the same lay.

Drop zone - the area where the helicopter delivers logs from the logging site.

Droplines - a short line attached to the carriage or carriage block which is used as an extension to the main line.

Drum - a mechanical device on which line is spooled or unspooled.

Dry land storage - decks of logs stored for future removal or use.

Dutchman -

• a block used to change direction of line lead (sideblocking).

• a method ((of falling timber consisting of inserting a piece of material into one side of the undercut to assist in pulling a tree against the lean or a section of the undercut can be left in a corner to accomplish the same purpose)) used to pull a tree against its lean by leaving a section of the undercut on one corner of the face. The portion left consists of a single saw kerf in one side of the face, with the face completely removed on the opposite side of the face cut. A single saw kerf must never extend completely across the stump.

Experienced person - a person who has been trained and has participated in the subject process for a period of time long enough to thoroughly acquaint the person with all facets of the process.

F.O.P.S. - falling object protective structure.

Fair lead - sheaves, rolls, or a combination thereof arranged to receive a line coming from any direction for proper line spooling on to a drum.

Fell (fall) - to cut down trees.

Feller (faller) - an employee who fells trees.

Front end loader - a mobile machine mounted on a wheeled or tracked chassis, equipped with a grapple, tusk, bucket, or fork-lift device, and employed in the loading, unloading, stacking, or sorting of logs or materials.

Grounded - the placement of a component of a machine on the ground or on a device where it is firmly supported. Grounded may also relate to the placement of a tree on the ground or a method to dissipate static or electrical charges.

Guarded - covered, shielded, fenced, enclosed, or otherwise protected by means of suitable enclosures, covers, casings, shields, troughs, railings, screens, mats, or platforms, or by location, to prevent injury.

Guard rail - a railing to restrain a person.

Guyline - a line used to support or stabilize a spar, tail/lift tree, intermediate support tree or equipment. A guyline is considered a standing line.

**Gypsy drum** - a mechanical device wherein the line is not attached to the drum and is manually spooled to control the line movement on and off the drum.

**Haulback** - a line used to pull the buttrigging and main-line to the logs to be yarded.

**Haulback block** - any block the haulback line passes through including the corner block and tailblock.

**Hay rack** -

• a type of loading boom where two tongs are used and logs are suspended.

• a transporting vehicle with multiple sets of bunks attached to a rigid frame usually used for hauling logs.

**Haywire** - see strawline.

**Hazardous falling area** - the area within a circle centered on the tree being felled and having a radius not less than twice the height of that tree.

**Head tree** - the tree where yarding and/or loading takes place. (See spar)

**Heel boom** - a type of loading boom where one tong is used and one end of the log is pulled up against the boom.

**High lead** - a system of logging wherein the main line is threaded through the main line block, which is attached near the top of the spar, to obtain a lift of the logs being yarded.

**High visibility colors** - white, bright, or fluorescent colors that stand out from the surrounding background color so they are easily seen.

**Hobo log and/or hitchhiker** - a free or unattached log that is picked up by a turn and is transported with the turn.

**Hooktender** - the worker that supervises the method of moving the logs from the woods to the landing.

**Hot deck** - a landing where logs are being moved.

**Hydraulic jack** - a mechanical device, powered by internal pressure, used to control the direction in which a tree is to be felled.

**In the clear** - ((being in a position where the possibility of harmful physical contact is minimized)) a position within the work area where the probability of hazardous contact with falling trees, moving logs, rootwads, chunks, material, rigging and equipment is minimized by distance from the hazards and/or use of physical barriers, such as stumps, trees, terrain or other objects providing protection.

**Examples:**

• Back behind on the uphill side of the turn and out of reach of any upending logs.

• Out of the bight.

• In the logged off area.

• In a position where movement will not be obstructed.

**Intermediate support system** - a system for supporting a loaded skyline in a support jack by one of the two following methods:

• Double tree support - the skyline is suspended on a single piece of wire rope supported by two trees so that the load is shared between the two trees.

• Single tree support - the skyline is suspended on a single piece of wire rope, single-eyed choker or double-eyed strap supported by a single tree. The support tree may be vertical or leaning.

**Jackstrawed** - trees or logs piled in an unordered manner.

**Jaggers** - any projecting broken wire in a strand of cable.

**Kerf** - the part of timber products taken out by the saw teeth.

**Knob** - a metal ferrule attached to the end of a line.

**Landing** - any place where logs are laid after being yarded, awaiting subsequent handling, loading, and hauling.

~~((Lift tree - an intermediate support for skylines.))~~

**Landing chute** - the head of the skid trail or road where the logs are temporarily placed before handling, loading and hauling.

**Lay** -

• the straight-line distance it takes a strand of wire rope to make one complete spiral around the core of a rope.

• the position of a log in a pile, on a load, or in the fell and bucked.

**Limbing** - to cut branches off felled or standing trees.

**Loading boom** - any structure projecting from a pivot point to guide a log when lifted.

**Lodged tree (hung tree)** - a tree leaning against another tree or object which prevents it from falling to the ground.

~~((Logging operations - operations associated with felling and moving trees and logs from the stump to the point of delivery, such as, but not limited to, marking, felling, bucking, limbing, debarking, chipping, yarding, loading, unloading, storing, and transporting machines, equipment and personnel from one site to another.~~

**Log dump** - a place where logs are removed from transporting equipment. It may be either dry land or water, par-buckled over a brow log or removed by machine.

**Logging machine** - a machine used or intended for use to yard, move, or handle logs, trees, chunks, trailers, and related materials or equipment. This shall include self-loading log trucks only during the loading and unloading process.

**Log** - a tree segment suitable for subsequent processing into lumber, pulpwood, or other wood products, including but not limited to poles, piling, peeler blocks, sections and/or bolts.

**Log stacker** - a mobile machine mounted on a wheeled or tracked chassis, equipped with a frontally mounted grapple, tusk, or forklift device, and employed in the loading, unloading, stacking, or sorting of logs.)) **Log** - a tree segment suitable for subsequent processing into lumber, pulpwood, or other wood products, including, but not limited to, poles, piling, peeler blocks, sections and/or bolts.

**Log bronco** - a sturdily built boat usually from twelve to twenty feet in length, used to push logs or bundles of logs in a generally forward direction in booming and rafting operations.

**Log dump** - a place where logs are removed from transporting equipment. It may be either dry land or water, par-buckled over a brow log or removed by machine.

**Log stacker** - a mobile machine mounted on a wheeled or tracked chassis, equipped with a frontally mounted grapple, tusk, or forklift device, and employed in the loading, unloading, stacking, or sorting of logs.

**Logging machine** - a machine used or intended for use to yard, move, or handle logs, trees, chunks, trailers, and related materials or equipment.

**Note:** A self-loading log truck is only considered a logging machine when in use for loading and unloading.

**Note:** A helicopter is not considered a logging machine.

Logging operations - operations associated with felling and/or moving trees, logs, veneer bolts, poles, pilings, and other forest products from the stump to the point of delivery. Such operations are such, but not limited to, marking, felling, bucking, limbing, debarking, chipping, yarding, loading, unloading, storing, and the transporting of machines, equipment and personnel from one site to another.

Long sticks - an overlength log or tree length that creates a hazard by exceeding the safe perimeters of the landing.

Machine - a piece of stationary or mobile equipment having a self-contained power plant, that is operated off-road and used for the movement of material. Machines include but are not limited to tractors, skidders, front-end loaders, scrapers, graders, bulldozers, (~~swing yarders~~) rough terrain logging shovels(~~(?)~~), log stackers and mechanical felling devices, such as tree shears and feller-bunchers.

Mainline - the line attached to the buttrigging used to pull logs to the landing.

Mainline block - the block hung in the portable spar or tower through which the mainline passes.

Mainline train - any train that is made up for travel between the woods and log dump.

Matchcutting - the felling of trees without using an undercut.

Mechanized falling - falling of standing timber by a self-propelled mobile wheeled or tracked machine equipped with a shear or other powered cutting device.

Mechanized feller - any such machine as described in WAC ((~~296-54-535 and 296-54-537~~) 296-54-541 and 296-54-543, and includes feller/bunchers and similar machines performing multiple functions.

Mechanized logging machine - a feller-buncher, single-grip harvester, processor, forwarder, clambunk, or log loader.

Mobile log loader - a self-propelled log loading machine mounted on wheels or tracks, incorporating a boom and employed in the loading or unloading of logs by means of grapples or tongs.

Mobile yarder - a logging machine mounted on wheels, tracks, or skids, incorporating a vertical or inclined spar, tower, or boom, employed in skyline, slackline, high lead or grapple overhead cable logging systems.

Molle - a single strand of wire rope rolled into a circle with six wraps. A molle can be used as a temporary method of connecting the eye splices of two lines. A molle is used in most pin shackles in place of a cotter key.

Must - the same as "shall" and is mandatory.

~~((New area or setting - a location of operations when both the loading station and the yarder are moved.))~~

New job site - a location of operations when the loading station and/or the yarder or cutting operations are moved to a new area outside of the current sale or contracted unit.

Pass line - a small line threaded through a block at the top of the spar to assist the high climber.

Permissible (as applied to any device, equipment or appliance) - such device, equipment, or appliance has the formal approval of the United States Bureau of Mines, American Standards Association, or National Board of Fire Underwriters.

Portable spar or tower - a movable engineered structure designed to be used in a manner similar to which a wood spar tree would be used.

Qualified person - a person, who by possession of a recognized degree, certificate, professional standing, or by extensive knowledge, training, and experience, has successfully demonstrated ability to solve or resolve problems relating to the subject matter, the work, or the project.

Rated capacity - the maximum load a system, vehicle, machine or piece of equipment was designed by the manufacturer to handle.

Reach - a steel tube or wood timber or pole connected to the truck and inserted through a tunnel on the trailer. It steers the trailer when loaded and pulls the trailer when empty.

~~((Receding line - the line on a skidder or slackline comparable to the haulback line on a yarder.))~~

Reload - an area where logs are dumped and reloaded or transferred as a unit to another mode of transportation.

Rollway - any place where logs are dumped and they roll or slide to their resting place.

Root wad - the ball of a tree root and dirt that is pulled from the ground when a tree is uprooted.

R.O.P.S. - roll over protection structure.

Rub tree - a tree used to guide a turn around an area.

Running line/running rope - any ((line which moves)) moving line directly involved with the yarding of logs.

Safety factor - the ratio of breaking strength to a safe working strength or loading.

Safety glass - a type of glass that will not shatter when broken.

Sail block - a block hung inverted on the sail guy to hold the tong block in proper position.

Scaler - the person who measures the diameter and length of the logs, determines specie and grade, and makes deductions for footage calculations.

Serviceable condition - a state or ability of a tool, machine, vehicle or other device to operate as it was intended by the manufacturer to operate.

Shall - a requirement that is mandatory.

Shear log - a log placed in a strategic location to divert passage of objects.

Shore skids - any group of timbers spaced a short distance apart on which logs are rolled.

Should - means recommended.

Signal person - the person designated to give signals to the machine operator.

Siwash - to change the lead of a line with a physical object such as a stump or tree instead of a block.

Skidder - a machine or animal used to move logs or trees to a landing.

Skidding - movement of logs or trees on the surface of the ground to the place where they are to be loaded.

Skidding line - the main haulage line from a carriage to which chokers are attached. Sometimes referred to a mainline.

Skyline - the line suspended between two points on which a block or carriage travels.

Slackline - a form of skyline where the skyline cable is spooled on a donkey drum and can be raised or lowered.

Slack puller - any weight or mechanical device used to increase the movement of a line when its own weight is inadequate.

Slope (grade) - the increase or decrease in altitude over a horizontal distance expressed as a percentage. For example, change of altitude of 20 feet (6 m) over a horizontal distance of 100 feet (30 m) is expressed as a 20 percent slope.

Snag - a dead standing tree or a portion thereof. (See Danger tree)

Snorkel - a loading boom modified to extend its limitations for yarding.

Spar/spar tree - a tree or device (rigged for highlead, skyline or slackline yarding) used to yard logs by any method of logging.

Speeder - a small self-powered vehicle that runs on a railroad track.

Spike - a long heavy nail similar to a railroad spike.

Springboard - a board with an iron tip used by fallers to stand on while working above ground level.

Spring pole - a tree, segment of a tree, limb, or sapling which is under stress or tension due to the pressure or weight of another object.

Square lead - the angle of 90 degrees.

Squirrel - a weight used to swing a boom when the power unit does not have enough drums to do it mechanically.

Squirrel tree - a topped tree, guyed if necessary, near the spar tree in which the counter balance (squirrel) of a tree rigged boom is hung.

Standing line -

• guyline

• a nonoperating rope with end terminations to support a boom or mast.

Stiff boom - two or more boom sticks wrapped together on which boom persons walk or work.

Strap - any short piece of line with an eye or "D" in each end.

Strap socket or D - a socket with a closed loop arranged to be attached to the end of a line by the molten zinc, or an equivalent method. It is used in place of a spliced eye.

~~Strawline - a ((small line used for miscellaneous purposes-))~~ light cable used in rigging up, or in moving other cables or blocks. The smallest line on the yarder. (Mainline - haulback line - strawline.)

Strip - a definite location of timber on which one or more cutting crews work.

Swamping - the falling or cutting of brush around or along a specified place.

Swede connection - a line configuration made by wrapping two choker lines in the same direction around a tree or log connecting the line knobs to opposite line bells.

Swifter - a piece of equipment used to tie the side sticks of a log raft together to keep the raft from spreading.

~~Swing cut - ((a back cut in which the holding wood on one side is cut through))~~ an intentional dutchman left on one corner of an undercut or a backcut in which the holding wood on one side is cut through in conjunction with an intentional dutchman to achieve a desired lay for the tree being fell.

~~Tail block - ((the haulback block at the back end of the show))~~ a block used to guide the haulback line at the back corner of the yarding area.

Tail hold - an anchor used for making fast any line or block.

Tail/lift tree - the tree at the opposite end from the head tree on which the skyline or other type rigging is hung.

Tie back - to use a twister(s) (or similar system/device) that has a breaking strength equal to fifty percent of the breaking strength of the mainline or skyline whichever is greater. To secure or support one anchor by securing it to a second anchor(s) such as wrapping one stump and choking another.

Tie down - a chain, cable, steel strips or fiber webbing and binders attached to a truck, trailer or other conveyance as a means to secure loads and to prevent them from shifting or moving when they are being transported.

Tight line - when either the mainline or haulback are held and power is exerted on the other or when power is exerted on both at the same time.

Tong line block - the block hung in a boom through which the tong line operates.

Tongue - a device used to pull and/or steer a trailer.

Topping - cutting off the top section of a standing tree.

Tower - (see portable spar or tower).

Tractor - a machine of wheel or track design used in logging.

Tractor logging - the use of any wheeled or tracked vehicle in the skidding or yarding of logs.

Transfer (as used in loading) - changing of logs in a unit from one mode of transportation to another.

Tree jack - a grooved saddle of wood or metal rollers contained within two steel plates, attached to a tree with a strap, used as a guide for skyline, sail guy, or similar static line. It is also formed to prevent a sharp bend in the line.

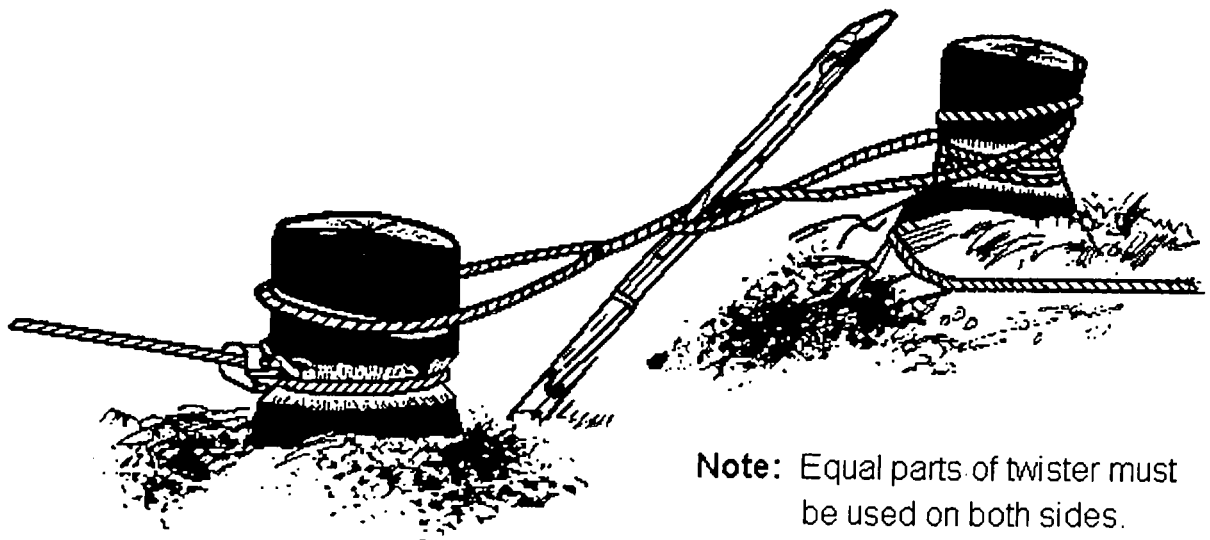
Tree plates - steel bars sometimes shaped as elongated J's, which are fastened near the top of a tree to hold guylines and prevent them from cutting into the tree when tightened. The hooks of the J are also used to prevent the mainline block strap from sliding down the tree.

Tree pulling - a method of falling trees in which the tree is pulled down with a line.

Tug - a boat, usually over twenty feet in length, used primarily to pull barges, booms of logs, bags of debris, or log rafts.

Turn - any log or group of logs attached by some means to power and moved from a point of rest to a landing.

Twister - a line (usually small diameter wire rope "hay-wire") that supports a tailhold stump, guyline stump, or tree that does not appear to be strong enough. This is done by connecting the tailhold to another stump or tree opposite by wrapping the two with a line. This line is then tightened by placing a piece of large-diameter limb between the wrappings and twisting them together.



Note: Equal parts of twister must be used on both sides.

**TWISTER ROPE**

Undercut - a notch cut in a tree to guide the direction of the tree fall and to prevent splitting or kickback.

V-lead - a horizontal angle of less than ninety degrees formed by the projected lines of the mainline from the drum of the logging machine through the block or fairlead and the yarding log or turn.

Vehicle/crew bus - a car, bus, truck, trailer or semi-trailer owned, leased, or rented by the employer that is used for transportation of employees or movement of material.

WAC - Washington Administrative Code.

Waistline - that portion of the haulback running between the corner block and the tail block.

Winching - the winding of cable or rope onto a spool or drum.

Within the stakes - when one-half the log diameter is below the stake top.

Work areas - any area frequented by employees in the performance of assigned or related duties.

Wrapper - a cable assembly or chain used to contain a load of logs.

Wrapper rack - barrier used to protect a person while removing binders and wrappers from a loaded logging truck.

Yarder (donkey) - a machine with a series of drums used to yard logs.

Yarding - the movement of logs from the place they are felled to a landing.

**AMENDATORY SECTION** (Amending WSR 94-16-145, filed 8/3/94, effective 9/12/94)

**WAC 296-54-507 ((Management's responsibility-) Employer's responsibilities.** ((In addition to observance of the general safety and health standards:

(1) ~~The employer shall assume the responsibility of safety training for new employees.~~

(2) ~~The employer shall develop and maintain a hazard communication program as required by chapter 296-62 WAC, Part C, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.~~

(3) ~~The employer shall assume the responsibility of work assignments so that no employee shall be allowed to work in a position or location so isolated that he/she is not within ordinary calling distance of another employee who can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these duties is carried on, there shall be a minimum of two employees who shall work as a team and shall be in visual or hearing contact with one another to allow prompt awareness of injury or cessation of work activity of one employee by the other. No employee shall be left alone for a period of time to exceed fifteen minutes without visual or hearing contact. In addition, there shall be some system of back-up communication in the near proximity to enable an employee to call for assistance in case of emergency.~~

Note: This does not apply to operators of motor vehicles, watch persons or certain other jobs which, by their nature, are singular employee assignments. However, a definite procedure for checking the welfare of all employees during their working hours shall be instituted and all employees so advised.

(4) ~~The employer shall establish a method of checking the employees in from the woods at the end of each shift. Each immediate supervisor shall be responsible for his/her crew being accounted for. This standard also includes operators of all movable equipment.~~

PERMANENT

~~(5) Prior to the commencement of logging operations in a new area or setting, a safety meeting shall be held and a plan shall be developed and implemented whereby management shall ascertain by direct supervision that the work is being carried out with special emphasis on safety and safe work practices.~~

~~(6) When extreme weather or other extreme conditions are such that additional hazards arise, additional precautions shall be taken to assure safe operations. If the operation cannot be made safe because of the aforementioned conditions, the work shall be discontinued until safe to resume.~~

~~(7) Danger trees within reach of landings, roads, rigging, buildings or work areas shall be either felled before regular operations begin or work shall be arranged so that employees shall not be exposed to hazards involved.~~

~~(8) Management shall ensure that intoxicating beverages and narcotics are not permitted or used by employees on or in the vicinity of the work site. Management shall cause employees under the influence of alcohol or narcotics to be removed from the work site. This requirement does not apply to employees taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the employee or others:)) The employer must comply with the requirements of all safety and health regulations and must:~~

(1) Provide safety training for new employees.

(2) Take additional precautions to ensure safe logging operations when extreme weather or other extreme conditions create hazards. If the logging operation cannot be made safe, the work must be discontinued until safe to resume.

(3) Ensure that danger trees within reach of landings, rigging, buildings, or work areas are either fell before regular logging operations begin, or arrange work so that employees are not exposed to the related hazards.

(4) Develop and maintain a hazard communication program as required by chapter 296-62 WAC, Part C. The program must provide information to all employees about hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(5) Ensure that intoxicating beverages and narcotics are prohibited on or near the worksite. The employer must remove from the worksite any employee under the influence of alcohol or narcotics.

Note: Narcotics do not include prescription drugs taken under a doctor's direction if the use does not endanger any employee.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-509 Employee's responsibility. ((1))**

Employees shall coordinate and cooperate with management and other employees in an attempt to eliminate accidents.

(2) Employees shall study and observe all safe work practices governing their work.

(3) They should offer safety suggestions, wherein such suggestions may contribute to a safer work environment.

(4) Intoxicating beverages and narcotics shall not be permitted or used by employees in or around the work sites. Employees under the influence of alcohol or narcotics shall

~~not be permitted on the work site. This rule does not apply to employees taking prescription drugs and/or narcotics as directed by a physician providing such use shall not endanger the employee or others.~~

~~(5) Employees shall conduct themselves in a workman-like manner while on the work site:)) (1) Employees must coordinate and cooperate with the employer and other employees in an attempt to eliminate accidents.~~

~~(2) Employees must be aware of and follow all safe practices that apply to their work.~~

~~(3) Employees should offer safety suggestions that may contribute to a safer work environment.~~

~~(4) Intoxicating beverages and narcotics must not be permitted or used by employees in or around the worksites. Employees under the influence of alcohol or narcotics must not be permitted on the worksite.~~

EXCEPTION: This rule does not apply to employees taking prescription drugs and/or narcotics as directed by a physician if the use does not endanger the employee or others.

(5) Employees must conduct themselves in a workman-like manner while on the worksite.

(6) Employees must make prompt report to their immediate supervisor of each industrial injury or occupational illness, regardless of the degree of severity.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-511 Personal protective equipment (PPE). ((1)) General requirements:**

(a) Protective equipment, including personal protective equipment for eyes, face, head, hearing and extremities, protective clothing, respiratory devices and protective shields and barriers, shall be used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(b) The employer shall assure that personal protective equipment, including any personal protective equipment provided by an employee, is maintained in a serviceable condition:

(c) Design. All personal protective equipment shall be of safe design and construction for the work to be performed. All safety belts and attachments shall meet the requirements of section 3 of ANSI A10.14-1975.

(d) The employer shall assure that personal protective equipment, including any personal protective equipment provided by an employee, is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable personal protective equipment shall be replaced before work is commenced.

(2) Eye and face protection. The employer shall provide, at no cost to the employee, and assure that each employee wears the following:

(a) Eye protection meeting the requirements of chapter 296-24 WAC, Part A-2 where there is potential for eye injury due to falling or flying objects; and

(b) Face protection meeting the requirements of chapter 296-24 WAC, Part A-2 where there is potential for facial injury such as, but not limited to, operating a chipper. Logger-type mesh screens may be worn by employees performing chain-saw operations and yarding. Note to subsection (2): The employee does not have to wear a separate eye protection device where face protection covering both the eyes and face is worn.

(3) Respiratory protection. The respiratory protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.

(4) Occupational head protection. The employer shall provide, at no cost to the employee, and assure that all employees involved in the logging operation or any of its related activities wears head protection, unless such employees are protected by F.O.P.S., cabs or canopies, meeting the requirements of this chapter. Protective helmets shall be maintained in serviceable condition.

(a) Protective helmets purchased after February 20, 1995, shall comply with ANSI Z89.1-1986, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements," which is incorporated by reference, or shall be demonstrated to be equally effective.

(b) Protective helmets purchased before February 20, 1995, shall comply with the ANSI standard "American National Standard Safety Requirements for Industrial Head Protection," ANSI Z89.1-1969, or shall be demonstrated by the employer to be equally effective.

(5) Personal flotation devices. Employees working on, over or along water, where the danger of drowning exists, shall be provided with and shall wear approved personal flotation devices in accordance with General safety and health standards, WAC 296-24-086.

(6) Occupational footwear. The employer shall assure that each employee wears foot protection, such as heavy-duty logging boots that are waterproof or water repellent, cover and provide support to the ankle. The employer shall assure that each employee who operates a chain saw wears foot protection that is constructed with cut-resistant material which will protect the employee against contact with a running chain saw. Example: The traditional heavy-duty logging boot will meet the cut-resistant requirements of this subsection.

(a) All employees whose duties require them to walk on logs or boomsticks, shall wear sharp-calked (boots) shoes, or the equivalent, except when conditions such as ice, snow, etc., render calks ineffective. When calks are ineffective and other footwear does not afford suitable protection, workers shall not be required to work on logs or boomsticks.

(b) When non-slip type shoes or boots afford a greater degree of employee protection than calk (boots) shoes, such as at sealing stations, log sorting yards, etc., then this type footwear may be worn in lieu of calk shoes providing firm ankle support and secure footing are maintained.

(7) Leg protection. The employer shall provide, at no cost to the employee, and assure that each employee who

operates a chain saw wears leg protection constructed with cut-resistant material, such as ballistic-nylon. The leg protection shall cover the full length of the thigh to the top of the boot on each leg to protect against contact with a moving, chain saw.

Exception: This requirement does not apply when an employee is working as a climber if the employer demonstrates that a greater hazard is posed by wearing leg protection in the particular situation, or when an employee is working from a vehicular mounted elevating and rotating work platform meeting the requirements of chapter 296-24 WAC, Part J-2, Vehicle-mounted elevating and rotating work platforms.

(8) Hand protection. The employer shall provide, at no cost to the employee, and assure that each employee handling wire rope or other rough materials wears hand protection which provides adequate protection from puncture wounds, cuts and lacerations.

(9) Hearing protection. The hearing protection requirements of the general occupational health standards, chapter 296-62 WAC, shall apply.

(10) Protective clothing. Employees working on landings or in log sorting yards, when working on or from the ground, shall wear highly visible hard hats and/or yellow or orange vests, or similarly colored garments, to enable equipment operators to readily see them. It is recommended that such hard hats and vests or outer garments be of a luminous or reflectorized material. Employees performing duties of a flagperson shall wear a hard hat and vest or garment of contrasting colors. Warning vests and hard hats worn at night shall be of a reflectorized material.

Note: See chapter 296-24 WAC, Part A-2, for additional personal protective equipment requirements.)

(1) Protective equipment, including personal protective equipment for eyes, face, head, hearing and extremities, protective clothing, respiratory devices and protective shields and barriers, must be used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(2) Personal protective equipment, including any personal protective equipment provided by an employee, must be maintained in a serviceable condition.

(3) Design. All personal protective equipment must be of safe design and construction for the work to be performed. All safety belts and attachments must meet the requirements of section 3 of ANSI A10.14-1975.

(4) Personal protective equipment, including any personal protective equipment provided by an employee, must be inspected before initial use during each workshift. Defects or damage must be repaired or the unserviceable personal protective equipment must be replaced before work is commenced.



NEW SECTION

**WAC 296-54-51110 Head protection.** The employer must provide, at no cost to the employee, and ensure that all employees involved in the logging operation or any of its related activities wear head protection, unless the employees are protected by FOPS, cabs, or canopies meeting the requirements of this chapter.

(1) Hard hats purchased after February 20, 1995, must meet the requirements of ANSI Z89.1-1986, "American National Standard for Personnel Protection—Protective Headwear for Industrial Workers—Requirements," or the employer must demonstrate that they are equally effective.

(2) Hard hats purchased before February 20, 1995, must meet the requirements of ANSI Z89.1-1969, "American National Standard Safety Requirements for Industrial Head Protection," or the employer must demonstrate that they are equally effective.

(3) Hard hats must be maintained in serviceable condition.

NEW SECTION

**WAC 296-54-51120 Eye and face protection.** The employer must provide, at no cost to the employee, and ensure that each employee wears:

(1) Eye protection meeting the requirements of chapter 296-24 WAC, Part A-2, where there is potential for eye injury from falling or flying objects; and

(2) Face protection meeting the requirements of chapter 296-24 WAC, Part A-2, where there is potential for facial injury such as, but not limited to, operating a chipper. An employee using a chain saw may use either eye or face protection.

Note: The employee does not have to wear separate eye protection when the face protection also covers the eyes.

NEW SECTION

**WAC 296-54-51130 Hearing protection.** The employer must provide hearing protection when required by the general occupational health standards, chapter 296-62 WAC.

NEW SECTION

**WAC 296-54-51140 Hand protection.** (1) Each employee handling wire rope or other rough materials must wear hand protection that provides adequate protection from puncture wounds, cuts, and lacerations.

(2) Hand protection must be maintained in serviceable condition.

NEW SECTION

**WAC 296-54-51150 Respiratory protection.** The employer must provide respiratory protection when required by the general occupational health standards, chapter 296-62 WAC.

NEW SECTION

**WAC 296-54-51160 Leg protection.** (1) The employer must provide, at no cost to the employee, and ensure that each employee who operates a chain saw wears leg protection constructed with cut-resistant material, such as ballistic nylon. The leg protection must cover the full length of the thigh to the top of the boot on each leg to protect against contact with a moving chain saw.

EXCEPTION: This requirement does not apply to an employee working aloft in trees when supported by climbing spurs and climbing belt, or when an employee is working from a vehicle-mounted elevating and rotating work platform meeting the requirements of chapter 296-24 WAC, Part J-2, Vehicle-mounted elevating and rotating work platforms.

(2) Leg protection must be maintained in serviceable condition.

NEW SECTION

**WAC 296-54-51170 Foot protection.** (1) Each employee must wear foot protection that covers and supports the ankle, such as heavy-duty logging boots.

(2) Each employee who operates a chain saw must wear cut resistant foot protection that will protect the employee against contact with a running chain saw.

For example: Leather logging boots, insulated rubber pacs, and rubber boots with cut protection will meet the cut-resistant requirement of this section.

(3) All employees whose duties require them to walk on logs or boomsticks must wear sharp-calked boots, or the equivalent.

EXCEPTION 1: When calks are ineffective because of ice, snow, or other conditions and other footwear does not provide suitable protection, employees must be prohibited from working on logs or boomsticks.

EXCEPTION 2: The employer may allow employees to wear nonslip boots instead of calks when the nonslip boots provide greater employee protection than calks (such as at scaling stations, log sorting yards, etc.). The nonslip boots must still provide firm ankle support and secure footing.

(4) Foot protection must be maintained in serviceable condition.

NEW SECTION

**WAC 296-54-51180 Personal flotation devices.** (1) Employees working on, over, or along water, where there is a danger of drowning, must be provided with and wear approved personal flotation devices.

(2) Employees are not considered exposed to the danger of drowning when:

(a) The water depth is known to be less than chest deep on the exposed individual;

(b) Employees work behind standard height and strength guardrails;

(c) Employees work inside operating cabs or stations that will prevent accidentally falling into the water; or

(d) Employees wear approved safety belts with lifeline attached to prevent falling into the water.

(3) Before and after each use, personal flotation devices must be inspected for defects that would reduce their designed effectiveness. Using a defective personal flotation device is prohibited.

(4) An approved personal flotation device must be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, as required in 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices). Ski belt or inflatable personal flotation devices are prohibited.

**NEW SECTION**

**WAC 296-54-51190 Highly visible clothing.** (1) Employees working on landings or in log sorting yards on or from the ground, must wear highly visible hard hats, yellow or orange vests, or other similarly colored garments, to make employees more visible to equipment operators.

Note: The department recommends that hard hats and vests or outer garments be luminous or reflective.

(2) An employee working as a flagger must wear a hard hat and vest or other garment of high visibility colors. Warning vests and hard hats worn at night must be reflective.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-513 ((Safety education, training and first aid requirements.)) Arrangement of work areas and emergency contact.** ((The general safety and health standards, WAC 296-24-040 through 296-24-055 accident prevention program requirements are applicable to this chapter.

(1) Training. The employer shall provide training for each employee, including supervisors, at no cost to the employee.

(2) Frequency. Training shall be provided as follows:

(a) Before an employee is assigned to work independently on new tasks, tools, equipment, machines or vehicles; and

(b) Whenever an employee demonstrates unsafe job performance.

(3) Content. At a minimum, training shall consist of the following elements:

(a) Safe performance of assigned work tasks;

(b) Safe use, operation and maintenance of tools, machines and vehicles the employee uses or operates, including emphasis on understanding and following the manufacturer's operating and maintenance instructions, warnings and precautions;

(c) Recognition of safety and health hazards associated with the employee's specific work tasks, including the use of measures and work practices to prevent or control those hazards;

(d) Recognition, prevention and control of other safety and health hazards in the logging industry;

(e) Procedures, practices and requirements of the employer's work site; and

(f) The requirements of this chapter.

(4) Training of an employee due to unsafe job performance, or assignment of new work tasks, tools, equipment, machines, or vehicles; may be limited to those elements in subsection (3) of this section which are relevant to the circumstances giving rise to the need for training.

(5) Portability of training:

(a) Each current employee who has received training in the particular elements specified in subsection (3) of this section shall not be required to be retrained in those elements.

(b) Each new employee who has received training in the particular elements specified in subsection (3) of this section shall not be required to be retrained in those elements prior to initial assignment.

(c) The employer shall train each current and new employee in those elements for which the employee has not received training.

(d) The employer is responsible for ensuring that each current and new employee can properly and safely perform the work tasks and operate the tools, equipment, machines, and vehicles used in their job.

(6) Each new employee and each employee who is required to be trained as specified in subsection (2) of this section, shall work under the close supervision of a designated person until the employee demonstrates to the employer the ability to safely perform their new duties independently.

(7) First aid training:

(a) The employer shall assure that each employee, including supervisors, receives or has received first aid and CPR training.

(b) First aid and CPR training shall comply with the requirements of this section and WAC 296-24-060 (3)(c), Part A-1.

(c) The employer shall assure that each employee's first aid and CPR training and/or certificate of training remain current.

Note: First aid trained personnel at sorting yards may be provided as prescribed in WAC 296-24-060 "First aid training and certification."

(8) All training shall be conducted by a designated person.

(9) The employer shall assure that all training required by this standard is presented in a manner that the employee is able to understand. The employer shall assure that all training materials used are appropriate in content and vocabulary to the educational level, literacy, and language skills of the employees being trained.

(10) Certification of training:

(a) The employer shall verify compliance with subsection (1) of this section by preparing a written certification record. The written certification record shall contain the name or other identity of the employee trained, the date(s) of the training, and the signature of the person who conducted the training or the signature of the employer.

(b) The most recent training certification shall be maintained.

PERMANENT

(11) Safety and health meetings:

The employer shall hold safety and health meetings as necessary and at least each month for each employee. Safety and health meetings may be conducted individually, in crew meetings, in larger groups, or as part of other staff meetings.

(12) First-aid kits. The employer shall provide first-aid kits at each work site where trees are being cut (e.g., felling, bucking, limbing), at each active landing, and on each employee transport vehicle. The number of first-aid kits and the content of each kit shall reflect the degree of isolation, the number of employees, and the hazards reasonably anticipated at the work site.

(13) First-aid kits shall meet the requirements of WAC 296-24-065 of the general safety and health standard. The size and quantity of first-aid kits can be determined by the following table:

Number of employees assigned to worksite	Minimum first-aid supplies required at worksite
1-5	10 package kit*
6-15	16 package kit*
16-50	24 package kit*

\*Refer to WAC 296-24-065(7) for a list of required contents:

(14) When required by the department, there shall be available within the closest practicable distance from the operations (not to exceed 1/2 mile) the following items:

- 1 set of arm and leg splints.
- 2 all wool blankets or blankets equal in strength and fire resistance (properly protected and marked):
- 1 stretcher. (For crew and emergency vehicles, see WAC 296-54-519(11).)

(15) The employer shall maintain the contents of each first-aid kit in a serviceable condition.

(16) First-aid kits shall also be equipped with the following items:

- (a) Latex gloves (1 pr.).
  - (b) Resuscitation equipment such as resuscitation bag, airway, or pocket mask.))
- (1) Employee work areas must be spaced and employee duties organized so the actions of one employee do not create a hazard for any other employee.

(2) Work areas must be assigned so that:

(a) Trees cannot fall into an adjacent occupied work area;

(b) The distance between work areas is at least two tree lengths of the trees being fell;

(c) The distance between work areas reflects the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at the worksite; and

(d) A distance of more than two tree lengths is maintained between work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

(3) Each employee must be within visual, audible, or radio/telephone contact with another person who can assist in case of emergency.

(4) In any logging operation where cutting, yarding, or loading are performed, there must be at least two employees working as a team.

(5) Each employee must have visual or audible signal contact with another employee as often as this schedule requires:

(a) Cutters - 30 minutes.

(b) All other employees - 2 hours, which allows for making layouts, notching guyline stumps, etc., during normal work hours.

Exception: The requirements for a two-person team and check-in schedule do not apply to operators of motor vehicles, mechanized logging machines, watchpersons or certain other jobs which, by their nature, are singular employee assignments. However, a procedure for checking the welfare of these employees during their working hours must be instituted and all employees so advised.

(6) Mechanics or other employees must not be assigned to work on equipment by themselves when there is a probability of a fall from elevated work locations or equipment. Also, if the work is of such nature that heavy parts require moving, or there is a probability that anything heavy could fall on the person, there must be another person in the immediate area to render assistance.

(7) The employer must establish a method of checking the employees in from the woods at the end of each shift, including operators of all movable equipment. Each immediate supervisor must account for their crew.

(8) Each worksite must have at least one serviceable and operable two-way radio, phone, or radio/phone combination available to reach emergency service. Citizen band radios are permitted only as a secondary means of communication.

(9) Each worksite must have an emergency medical plan to ensure rapid emergency medical care for employees with major illnesses and injuries. The plan must be in writing and include the following:

(a) Township, range, and section numbers or latitude and longitude or UMS Grid System coordinates;

(b) Directions by road, or escort provisions to the site;

(c) Telephone number of emergency medical services; and

(d) Provisions for emergency vehicle(s) access, when working behind locked gate(s).

**AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)**

**WAC 296-54-515 ((General requirements)) Accident prevention program. ((1) Emergency stops. Speed limiting devices, safety stops or emergency shut down devices or shut off valves shall be provided, with the controls so located that in the event of an emergency, the prime mover may be shut down from a safe place.**

**(2) Machine operators.** Machine operators shall be experienced in operating the equipment they are using, except that inexperienced persons may operate the equipment to gain experience while in training and may do so only while working under immediate supervision of an experienced authorized person.

PERMANENT

(3) Refueling vehicles. Each machine, vehicle, and portable powered tool shall not be fueled while the motors are running with the exception of helicopters, which is permitted under certain conditions. (See WAC 296-54-559(36).)

(4) Hydraulic lines. If failure of hydraulic lines would create a hazard to an equipment operator while at the operating station, safeguards shall be installed in such a manner as to eliminate the hazard. All hydraulic lines shall be maintained free of leaks and shall be shielded from damage wherever possible.

(5) Defective equipment.

(a) Equipment in need of repair shall be reported to management in writing as soon as possible and such equipment shall not be used until repairs are completed if there is a possible hazard to safety of the operator or other employees.

(b) The employer shall assure that each vehicle used to perform any logging operation is maintained in serviceable condition.

(c) The employer shall assure that each vehicle used to perform any logging operation is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable vehicle shall be replaced before work is commenced.

(6) Lock out—tag out. Procedures for lock out—tag out shall be established and implemented to prevent the accidental starting of equipment that is shut down for repairs, maintenance or adjustments.

(7) Control marking. The controls of all machines shall be marked as to their purpose in the operation of the machine.

(8) Metal objects. Metal objects driven into trees or logs shall be removed immediately after serving their intended purpose.

(9) Fire protection. The employer shall provide and maintain portable fire extinguishers on each machine and vehicle in accordance with the requirements of chapter 296-24 WAC, Part G-3, Fire suppression equipment.

(10) Hand and portable powered tools.

(a) The employer shall assure that each hand and portable powered tool, including any tool provided by an employee, is maintained in serviceable condition.

(b) The employer shall assure that each tool, including any tool provided by an employee, is inspected before initial use during each workshift. At a minimum, the inspection shall include the following:

(i) Handles and guards, to assure that they are sound, tight fitting, (properly shaped, free of splinters and sharp edges, and in place);

(ii) Controls, to assure proper function;

(iii) Chain saw chains, to assure proper adjustment;

(iv) Chain saw mufflers, to assure that they are operational and in place;

(v) Chain brakes and/or nose shielding devices, to assure that they are in place and function properly;

(vi) Heads of shock, impact driven and driving tools, to assure that there is no mushrooming.

(c) The employer shall assure that each tool is used only for purposes for which it has been designed.

(d) When the head of any shock, impact driven or driving tool begins to chip, it shall be repaired or removed from service.

(e) The cutting edge of each tool shall be sharpened in accordance with manufacturer's specifications whenever it becomes dull during the workshift.

(f) Each tool shall be stored in the provided location when not being used at a work site.

(g) Hand and portable powered tools and other hand held equipment not addressed by this chapter shall be maintained and used in accordance with the general safety and health standards, WAC 296-24-650.

(11) Flammable and combustible liquids shall be stored, handled, transported and used in accordance with the requirements of chapter 296-24 WAC, Part E, and the following:

(a) Flammable and combustible liquids shall not be transported in the driver compartment or in any passenger-occupied area of a machine or vehicle.

(b) Flammable or combustible liquids, including chain-saw and diesel fuel, may be used to start a fire, provided the employer assures that in the particular situation its use does not create a hazard for an employee.

(12) Smoking prohibited. Smoking shall be prohibited in battery charging areas and within fifty feet of all refueling operations. Precautions shall be taken to prevent open flames, sparks or electric arcs in battery charging or refueling areas.

(13) Charging batteries. When charging batteries, the vent caps shall be kept in place to avoid electrolyte spray. Care shall be taken to ensure caps are functioning. The battery (or compartment) cover(s) shall be open to dissipate heat.

(14) Uncovered batteries. Tools and other metallic objects shall be kept away from the tops of uncovered batteries.

(15) Work areas.

(a) Employees shall be spaced and the duties of each employee shall be organized so the actions of one employee will not create a hazard for any other employee.

(b) Work areas shall be assigned so that trees cannot fall into an adjacent occupied work area. The distance between adjacent occupied work areas shall be at least two tree lengths of the trees being felled. The distance between adjacent occupied work areas shall reflect the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at that work site. A distance of greater than two tree lengths shall be maintained between adjacent occupied work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

(16) Signaling and signal equipment. Engine noise, such as from a chain saw, is not an acceptable means of signaling. Signaling and signal equipment shall comply with the requirements of this chapter.

(17) Overhead electric lines.

(a) Logging operations near overhead electric lines shall be done in accordance with the requirements of WAC 296-54-557(25).

(b) Special precautions shall be taken to prevent trees from falling into power lines. The employer shall notify the power company immediately if a felled tree makes contact with any power line. If it appears that a tree will hit a power line, the power company shall be notified before it is attempted to fall the tree. If an unsuspected tree does contact a power line, each employee shall remain clear of the area

~~until the power company advises that there are no electrical hazards:~~

~~(18) Explosives and blasting agents. Explosives and blasting agents shall be stored, handled, transported, and used in accordance with the requirements of chapter 296-52 WAC, Possession and handling of explosives.~~

~~(19) Seat belts. For each vehicle or machine (equipped with ROPS/FOPS or overhead guards), including any vehicle or machine provided by an employee, the employer shall assure:~~

~~(a) That a seat belt is provided for each vehicle or machine operator;~~

~~(b) That each employee uses the available seat belt while the vehicle or machine is being operated;~~

~~(c) That each employee securely and tightly fastens the seat belt to restrain the employee within the vehicle or machine cab;~~

~~(d) That each machine seat belt meets the requirements of the Society of Automotive Engineers Standard SAE J386, June 1985, "Operator Restraint Systems for Off Road Work Machines." Prior to February 9, 1995, seat belts and assemblies shall be designed, constructed and maintained to conform to the requirements specified in the society of automotive engineers technical report J386 or J333a. Seat belts need not be provided for equipment which is designed for stand-up operations;~~

~~(e) That seat belts are not removed from any vehicle or machine. The employer shall replace each seat belt which has been removed from any vehicle or machine that was equipped with seat belts at the time of manufacture; and~~

~~(f) That each seat belt is maintained in a serviceable condition.~~

~~(20) The rated capacity of any vehicle transporting a machine shall not be exceeded.~~

~~(21) Machines shall be loaded, secured and unloaded in a manner so that it will not create a hazard for any employee.)) (1) The employer must develop a formal accident prevention program, tailored to the needs of the particular logging operation and to the type of hazards involved.~~

~~(2) The accident prevention program must be in writing.~~

~~(3) The accident prevention program must cover at least the following elements:~~

~~A safety training program that describes the employer's total safety program.~~

~~(a) How and when to report injuries;~~

~~(b) The location of first aid supplies;~~

~~(c) How to report unsafe conditions and practices;~~

~~(d) The use and care of required personal protective equipment;~~

~~(e) An on-the-job review of the practices necessary to perform job assignments safely; and~~

~~(f) Recognition of safety and health hazards associated with the employee's specific work tasks, including using measures and work practices to prevent or control those hazards.~~

~~(4) The employer must document and maintain current records of required training, including:~~

~~• Who was trained;~~

~~• The date(s) of the training; and~~

~~• The signature of the trainer or the employer.~~

## NEW SECTION

### **WAC 296-54-51510 Safety and health meetings.** (1)

The employer must hold safety and health meetings at the following intervals:

(a) Each time the employer moves to a new jobsite; and

(b) Monthly after the initial jobsite meeting.

(2) Safety and health meetings may be conducted individually, in crew meetings, in larger groups, or as part of other staff meetings.

(3) Attendance and subject(s) must be documented.

Note: When moving to a new jobsite, site specific hazards should be identified and discussed during the prejob safety meeting.

## NEW SECTION

**WAC 296-54-51520 First-aid training.** (1) Each employee, including supervisors, must receive or have received first-aid and CPR training. New employees not holding a valid first-aid card must be trained within a reasonable time, not to exceed six months from hiring.

EXCEPTION: Log truck drivers are not required to receive first-aid and CPR training if they are not involved with falling, yarding, loading, or processing logs.

(2) Each employee's first-aid and CPR training and/or certificate of training must be current.

(3) At least two persons holding a valid certificate of first aid training must be present or available at all times in sorting yard operations.

(4) First-aid and CPR training must cover at least the following:

(a) The definition of first aid.

(b) Legal issues of applying first aid (Good Samaritan Laws).

(c) Basic anatomy.

(d) Patient assessment and first aid for the following:

• Respiratory arrest.

• Cardiac arrest.

• Hemorrhage.

• Lacerations/abrasions.

• Amputations.

• Musculoskeletal injuries.

• Shock.

• Eye injuries.

• Burns.

• Loss of consciousness.

• Extreme temperature exposure (hypothermia/hyperthermia).

• Paralysis.

• Poisoning.

• Artificial ventilation.

(e) CPR.

(f) Applying dressings and slings.

(g) Treating strains, sprains, and fractures.

(h) Immobilizing injured persons.

(i) Handling and transporting injured persons.

(j) Treating bites, stings, or contact with poisonous plants or animals.

PERMANENT

NEW SECTION

**WAC 296-54-51530 First-aid kits.** (1) The employer must provide first-aid kits:

- (a) At each worksite where trees are being cut (e.g., falling, bucking, limbing);
- (b) At each active landing/logging site; and
- (c) In the absence of readily accessible first-aid supplies such as first-aid kits, first-aid stations, first-aid rooms or their equivalent, all transport vehicles, log trucks, speeders, road graders and similar equipment must be equipped with not less than a ten package first-aid kit; and
- (d) The number of first-aid kits and the content of each kit must reflect the degree of isolation, the number of employees, and the hazards reasonably anticipated at the worksite.

(2) Following is the minimally acceptable number and type of required first-aid supplies to meet the requirements of subsection (1)(a) and (b) of this section.

Note: The contents of the first-aid kit listed should be adequate for small worksites of two or three employees. For larger or multiple logging operations conducted at the same location, the employer should provide additional first-aid kits or additional quantities of supplies in the first-aid kits.

- (a) Gauze pads (at least 4 x 4 inches).
- (b) Two large gauze pads (at least 8 x 10 inches).
- (c) Box adhesive bandages (band-aids).
- (d) One package gauze roller bandage at least 2 inches wide.
- (e) Two triangular bandages.
- (f) Wound cleaning agent such as sealed moistened tow-lettes.
- (g) Scissors.
- (h) At least one blanket.
- (i) Tweezers.
- (j) Adhesive tape.
- (k) Latex gloves.
- (l) Resuscitation equipment such as resuscitation bag, airway, or pocket mask.
- (m) Two elastic wraps.
- (n) Splint.
- (o) Stretcher.
- (3) Transport vehicles, log trucks, speeders and road graders must have at least the following number and type of first-aid supplies:
  - 10 package kit.
  - 1 pkg. adhesive bandages, 1" (16 per pkg.).
  - 1 pkg. bandage compress, 4" (1 per pkg.).
  - 1 pkg. scissors and tweezers (1 each per pkg.).
  - 1 pkg. triangular bandage, 40" (1 per pkg.).
  - 1 pkg. antiseptic soap or pads (3 per pkg.).
  - 5 pkgs. employer's choice.
- (4) When six or more employees are generally being transported on any one trip, the first-aid kit must be increased in size following the requirements of subsection (2) of this section. Subsection (2)(h), (n) and (o) are optional.
- (5) The employer must maintain the contents of each first-aid kit in a serviceable condition.

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

**WAC 296-54-517 (~~Camps~~) Lockout/tagout procedures.** (~~Rules, regulations and standards for camps shall be in accordance with WAC 296-24-125.~~) (1) The employer must establish and implement written procedures for lockout/tagout to prevent the accidental start up or release of stored energy of logging machinery that is shut down for repairs, maintenance, or adjustments.

(2) Lockout/tagout procedures must contain specific steps for:

(a) Shutting down, blocking, and securing machines to control hazardous energy;

(b) Locking and/or tagging out machinery; and

(c) Release from lockout/tagout.

(3) Lockout/tagout procedure details must include at least the following:

(a) Employees performing maintenance, repairs, or adjustments have knowledge of the hazardous energy to be controlled and the means to control the energy.

(b) Logging machine shutdown.

• Apply brakes, swing locks, etc.

• Place the transmission in the manufacturer's specified park position.

• Lower to the ground or secure each moving element such as, but not limited to, blades, booms, grapples, buckets, saws, and shears to prevent a release of stored energy.

• Shut down machinery and ensure that a responsible person removes and maintains possession of the ignition/master key.

• Engage hydraulic safety locks when applicable.

• Before working on hydraulic or air systems, relieve pressure by bleeding tanks or lines and operate controls to dissipate residual stored energy (pressure).

• Place lockout and/or tagout device.

(4) Release from lockout/tagout. Before lockout or tagout devices are removed and machinery is started, the work area must be inspected to ensure that all tools have been removed, guards are replaced, and employees are in the clear.

(5) The employer must provide padlocks and/or tags for locking and/or tagging out logging machinery that are durable enough to withstand the environment.

(6) Tags must have a legend such as "do not start" or "do not operate." Tags must be placed so they are obvious to anyone attempting to operate the machinery.

Note: In lockout, padlocks are commonly used to prevent access to ignition/master switches or battery disconnects.

(7) Energy sources. Stored or residual energy such as that in elevated machine members, rotating saws, hydraulic systems, air pressure and springs, must be dissipated or restrained by methods such as grounding, repositioning, blocking, chaining, bleeding down, etc.

(8) The employer must provide training to ensure that the purpose and function of the lockout/tagout program are understood by employees performing maintenance, repairs, or adjustments covered by this section. This program must be reviewed at least annually and training provided as needed. This training may be accomplished through safety meetings.

Note: See appendix 2 for a sample lockout/tagout program (energy control program).

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-519 ((Motor vehicles.)) Miscellaneous requirements.** ((1) Seats. The seats of each vehicle shall be securely fastened:

(2) Seat belts. The driver of a crew vehicle shall be provided with and shall wear a seat belt according to the provisions of WAC 296-54-515(19).

(3) Barricade. After May 1, 1980, a substantial barricade shall be provided behind the driver of a crew bus or vehicle that will transport nine or more passengers. The barricade shall extend from the floor to at least a level even with the top of the driver's head.

(4) Safe entrance and exits. Adequate provisions shall be made for safe entrance and exits. Mounting steps and handholds shall be provided for each vehicle wherever it is necessary to prevent an employee from being injured when entering or leaving the vehicle.

(5) Enclosed racks. When equipment or tools are carried inside the vehicle, racks, boxes, holsters or other means shall be provided, arranged and used for the transportation of tools so that a hazard is not created for any vehicle operator or passenger.

(6) Vehicle to be stopped. Persons shall not enter or exit from any vehicle until the vehicle is completely stopped.

(7) Keep within vehicle. Persons shall keep all parts of the body within the vehicle.

(8) Stoves prohibited. Provisions shall be made for heat and light in the passenger portion of the vehicle. Use of stoves in vehicles is prohibited.

(9) Emergency exit. On vehicles designed to transport nine or more passengers, an emergency exit not less than six and one-half square feet in area, with the smaller dimension being not less than 18 inches, shall be placed at the back of the vehicle or near the back on the side opposite the regular entrance. The route to and egress from the exit must be unobstructed at all times.

(10) Fire extinguisher. When no fuel is transported in the crew vehicle, a minimum rated 5/BC dry chemical fire extinguisher shall be kept in the passenger compartment. When fuel is transported on the crew vehicle in accordance with subsection (14) of this section, a minimum rated 10/BC dry chemical fire extinguisher shall be kept in the passenger compartment. The extinguishing agent shall be nontoxic and preferably a noncorrosive type.

(11) Crew and emergency vehicles. Vehicles designed to transport five or more passengers shall be equipped with stretchers, two blankets, and first aid kits. If used as a means of transporting injured persons, it shall be designed to enable persons to pass a loaded stretcher into the vehicle. Provisions shall be made for proper securing of the stretcher.

(12) Exhaust systems. Exhaust systems shall be designed and maintained to eliminate the exposure of passengers to toxic agents.

(13) The employer shall assure that operating and maintenance instructions are available in each vehicle. Each vehi-

cle operator and maintenance employee shall comply with the operating and maintenance instructions:

(14) Limitation of transportation of fuels. Fuels shall be transported or stored only in approved safety containers. Enclosed areas where fuels are carried or stored shall be vented in such a manner that a hazardous concentration of fumes cannot accumulate. All containers or drums shall be properly secured to the vehicle while being transported. Commercially built vehicles of the pick-up or flatbed type with a seating capacity of not to exceed six persons may be used to carry fuels in or on the bed of such vehicles, providing such fuels are not carried in the crew compartment. Van-type vehicles may be used to carry fuels only when a vapor-proof bulkhead is installed between the passenger compartment and storage compartment. Not more than forty-two gallons of gasoline may be carried or stored in the compartment and each container shall have a capacity not exceeding seven gallons.

(15) Motor vehicle laws. Motor vehicles used as crew vehicles regularly for the transportation of workers shall be covered against the weather and equipped and operated in conformity with applicable state of Washington motor vehicle laws.

(16) Operator's license. The employer shall assure that all operators of crew vehicles are experienced drivers and have a valid operator's license for the class of vehicle being operated.

(17) Daily vehicle check. Operators of crew vehicles shall check brakes and lights daily and shall keep windshields and mirrors clean.

(18) Good repair. Crew vehicles shall be maintained in good repair and safe condition.

(19) Dump trucks. Dump trucks shall only be used in an emergency to transport workers and shall be equipped with adequate safety chains or locking devices which will eliminate the possibility of the body of the truck being raised while employees are riding in the truck. Emergency shall mean any unforeseen circumstances which calls for immediate action when danger to life or danger from fire exists.

(20) Means of signaling. An effective means of signaling shall be provided for communication between the driver and the passengers being transported when they are in separate compartments.

(21) Load limit. The passenger load limit of a crew vehicle shall not exceed the seating capacity of the vehicle.

(22) Vehicle check. Crew vehicles shall be thoroughly inspected by a mechanic for defects which could create a hazardous condition for operation. Such inspections shall be carried out at least every month. Defects known to the operator shall be reported in writing to the mechanic or person in charge. If defects are found, they shall be corrected before the vehicle is used for the transportation of crews.)) (1) Spikes, drift bolts, nails, or other metal must not be left in any recoverable log.

(2) The employer must provide and maintain portable fire extinguishers on each machine and vehicle.

(3) Machines, vehicles, and portable powered tools (unless diesel powered) must not be fueled while the motors are running.

Note: See WAC 296-54-58130(3) for exceptions related to helicopters.

(4) Flammable and combustible liquids must be stored, handled, transported, and used according to the requirements of chapter 296-24 WAC, Part E, and the following:

(a) Flammable and combustible liquids must not be transported in the driver compartment or in any passenger-occupied area of a machine or vehicle.

(b) Flammable or combustible liquids, including chain-saw and diesel fuel, may be used to start a fire, if the employer ensures that in the particular situation its use does not create a hazard for an employee.

(5) Smoking is prohibited in battery charging areas and within fifty feet of all refueling operations. Precautions must be taken to prevent open flames, sparks, or electric arcs in battery charging or refueling areas.

(6) When charging batteries:

(a) The vent caps must be kept in place to avoid electrolyte spray;

(b) Caps must be functioning; and

(c) The battery (or compartment) cover(s) must be open to dissipate heat.

(7) Tools and other metallic objects must be kept away from the tops of uncovered batteries.

(8) Explosives and blasting agents must be stored, handled, transported, and used according to the requirements of chapter 296-52 WAC, Possession and handling of explosives.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-521** (~~Transportation of crews by use of speeders and trailers.~~) **Inspection and repair of equipment and vehicles.** ((1) ~~Braking systems. All speeders shall be equipped with two separate and independently operated braking systems either of which shall be of sufficient capacity to lock all wheels when speeder is fully loaded.~~

(2) ~~Sanding methods. All speeders used for transporting crews shall be equipped with methods for sanding tracks, operative for both directions of travel.~~

(3) ~~Lights, windshield wipers. Electric lights of sufficient candle power and range so that vehicle can be stopped within the range of the beam, and which will shine in the direction of travel, shall be provided on all speeders. Adequate tail lights shall be installed and maintained in good order. Automatic windshield wipers of sufficient capacity to maintain clear visibility shall be installed on all speeders.~~

(4) ~~Trailers. When trailers are coupled behind speeders, they shall be equipped with two separate and independent braking systems, either shall be of sufficient capacity to lock all wheels when the trailer is fully loaded. One of these shall be power operated and shall be controlled from the speeder; the other manually operated from the trailer. One person shall be designated to operate this brake in case of emergency.~~

(5) ~~Trailer coupling. All trailers shall be coupled to speeders with metal couplings and safety chains or straps of sufficient strength to withstand the impact caused by a broken coupling.~~

(6) ~~Trailer not to coast. No trailer shall coast or be used as a crew car without being attached to a speeder.)~~ **Defective equipment.**

(1) Equipment in need of repair must be reported to management as soon as possible and such equipment must not be used until repairs are completed if there is a possible hazard to safety of the operator or other employees.

(2) Each vehicle used to perform any logging operation must be inspected before initial use during each workshift. Defects or damage must be repaired or the unserviceable vehicle must be replaced before work is commenced.

(3) Each vehicle, machine and piece of equipment used to perform any logging operation must be maintained in serviceable condition.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-523** (~~Methods of crew transportation other than those specified.~~) **Hand and portable powered tools.** ((Special approval. Persons or firms desiring to transport crews by methods other than those specified in these rules shall so inform the department of labor and industries, so that an evaluation of that method may be made. Should the proposed method be found to afford a measure of safety acceptable to the department of labor and industries, a written order stating that finding shall be issued to the person or firm concerned by the department of labor and industries and the proposed method may be utilized.) (1) Each hand and portable powered tool, including any tool provided by an employee, must be maintained in serviceable condition.

(2) Each tool, including any tool provided by an employee, must be inspected before initial use during each workshift. The inspection must include at least the following:

(a) Handles and guards, to ensure that they are sound and tight-fitting, (properly shaped, free of splinters and sharp edges, and in place);

(b) Controls, to ensure proper function;

(c) Chain saw chains, to ensure proper adjustment;

(d) Chain saw mufflers, to ensure that they are operational and in place;

(e) Chain brakes and/or nose shielding devices, to ensure that they are in place and function properly;

(f) Heads of shock, impact-driven and driving tools, to ensure that there is no mushrooming.

(3) Each tool must be used and maintained according to the following requirements:

(a) Each tool is used only for purposes for which it was designed.

(b) Any shock, impact-driven or driving tool is repaired or removed from service when the head begins to chip.

(c) The cutting edge of each tool is sharpened according to manufacturer's specifications whenever it becomes dull during the workshift.

(d) Each tool is stored in the provided location when not being used at a worksite.

Note: See WAC 296-24-650 for rules on the use and maintenance of tools and other equipment not covered by this chapter.



AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

**WAC 296-54-527 ((~~Truck roads.~~) Overhead electrical lines clearance.))** ~~((1) Truck road grades. Truck road grades shall not be too steep for safe operation of logging or work trucks which operate over them and shall not exceed twenty percent in any case unless a positive means of lowering trucks is provided.~~

~~(2) Truck road surfaces.~~

~~(a) Truck roads shall be of sufficient width and evenness to insure the safe operation of equipment.~~

~~(b) Hazards such as broken planking, deep holes, large rocks, logs, etc., which prevent the safe operation of equipment, shall be immediately corrected.~~

~~(c) Road width. On blind curves, truck roads shall be of sufficient width for two trucks to pass, or some type of signal system shall be maintained or speed limited to such that the vehicle can be stopped in one half the visible distance.~~

~~(3) Safe roadways. All danger trees shall be felled a safe distance back from the roadway. Rocks, which present a hazard, shall be cleared from banks. Brush and other materials that obstruct the view at intersections or on sharp curves shall be cleared. (This subsection is applicable only to those portions of roads under direct control of the employer.)~~

~~(4) Bridges. All structures shall be adequate to support the maximum imposed loads without exceeding the maximum safe working unit stresses. All bridges shall have an adequate number of reflectors to clearly define the entrance to the bridge. All structures shall be maintained in good condition and repair and shall be inspected at least annually by a qualified authorized person and a record maintained of each inspection, which shall be made available to the division of industrial safety and health, department of labor and industries on request.~~

~~(5) Shear rails. Shear rails shall be installed on both outside edges of bridges. The shear rails must be securely fastened and made of material capable of withstanding the impact generated by contact with the wheels of a loaded vehicle. The top of shear rails shall be not less than fifteen inches above the bridge surface. Bridges in use prior to the effective date of these regulations with outside shear rails of a minimum of ten inches high or center type shear rails of not less than five inches high are permissible until such time repairs are needed.~~

~~(6) Control of dust on logging roads. Measures shall be instituted which will minimize dust to such degree that visibility will not be reduced beyond the point where an operator can safely operate a vehicle. Vehicle operators shall govern the speed of vehicles by road conditions.~~

~~(7) Fenders. Pneumatic tired equipment shall be equipped with fenders as described in the Society of Automotive Engineers Technical Report J321a.)~~ One of the following conditions must exist in work areas where equipment or machines are operated near electrical distribution and transmission lines:

(1) The lines have been de-energized and visibly grounded at the point of work:

(2) Insulating barriers that are not a part of or an attachment to the equipment or machinery are erected to prevent physical contact with the lines; or

(3) All of the following requirements are met:

	<u>Line Voltage</u>	<u>Required minimum clearance between lines and any part of equipment or machine</u>
(a)	<u>50 kV or below</u>	<u>ten feet</u>
(b)	<u>over 50 kV</u>	<u>ten feet plus 0.4 inch for each 1 kV over 50 kV, or twice the length of the line insulator, but never less than ten feet</u>
<u>For equipment or machinery in transit with no load and any boom or extended equipment lowered:</u>		
(c)	<u>50 kV or below</u>	<u>four feet</u>
(d)	<u>50-345 kV</u>	<u>ten feet</u>
(e)	<u>345-750 kV</u>	<u>sixteen feet</u>

(4) Someone must be designated to observe proper clearance and to give timely warning for all operations where it is difficult for the operator to see well enough to maintain the clearance.

(5) All overhead wires shall be considered energized unless the line owner or the electrical utility authorities ensure that it is not an energized line and has been visibly grounded.

(6) Special precautions must be taken to prevent trees from falling into power lines. The employer must notify the power company immediately if a felled tree makes contact with any power line. Before falling any tree that appears will hit a power line, the employer must notify the power company. If a tree does contact a power line, all employees must remain clear of the area until the power company ensures that there is no electrical hazard.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-529 ((~~Falling and bucking—General.~~) Seat belts.))** ~~((1) Before starting to fall or buck any tree or snag, conditions such as, but not limited to, snow and ice accumulation, the wind, the lean of tree, dead limbs, and the location of other trees, shall be evaluated by the feller and precautions taken so a hazard is not created for an employee. Accumulations of snow and ice that may create a hazard for an employee shall be removed before felling is commenced in the area or the area shall be avoided. Snags which are unsafe to cut shall be blown down with explosives or felled by other safe methods.~~

~~(2) No employee shall approach a feller closer than two tree lengths of trees being felled until the feller has acknowledged that it is safe to do so, unless the employer demonstrates that a team of employees is necessary to manually fell a particular tree.~~

~~(3) Before falling or bucking any tree:~~

~~(a) A sufficient work area shall be swamped;~~

~~(b) The feller shall plan and clear a retreat path; and~~

PERMANENT

(i) The retreat path shall extend diagonally away from the expected felling line unless the employer demonstrates that such a retreat path poses a greater hazard than an alternate retreat path; and

(ii) An escape path shall be used as soon as the tree or snag is committed to fall, roll, or slide.

(4) Warning to be given. Fallers shall give timely and adequate warning prior to falling each tree; such warning shall be given with the saw motor at idle or shut off. Persons in the area shall give response to the faller and shall also notify faller(s) when they are in the clear.

(5) A competent person, properly experienced in this type of work, shall be placed in charge of falling and bucking operations. Inexperienced workers shall not be allowed to fall timber or buck logs unless working under the direct supervision of an experienced worker.

(6) Each danger tree shall be carefully checked for signs of loose bark, broken branches and limbs or other damage before they are felled or removed. Accessible loose bark and other damage that may create a hazard for an employee shall be removed or held in place before felling or removing the tree. When a danger tree has elevated loose bark which cannot be removed, the buddy system shall be used to watch for and give warning of falling bark or other hazards.

(7) Tools of fallers and buckers, such as axes, sledges, wedges, saws, spring boards, etc., must be maintained in safe condition. Case hardened or battered sledges and wedges shall not be used.

(8) Trees shall not be felled if the falling tree can endanger any worker or strike any line or any unit in the operation.

(9) When practical, strips shall be laid out so cutters face out into opening when starting strip, and all trees shall be felled into the open whenever conditions permit.

(10) Trade leaners. Cutters shall not fall into another strip; leaners on the line shall be traded.

(11) When there is danger from kickback of a sapling, the same must be either undercut or felled.

(12) Cutters shall place an adequate undercut and leave sufficient holding wood to insure the tree will fall in the intended direction. When required, mechanical means shall be used to accomplish this objective.

(13) Cutters shall be careful their chopping range is unobstructed.

(14) Cutters shall confer with their supervisor regarding a safe manner of performing the work and in unusually hazardous situations shall not proceed with the work until their method has been approved by their supervisor.

(15) The person in charge of cutting crews shall regularly inspect the work of the cutting crews and shall be responsible for seeing the work is performed in a proper and safe manner.

(16) Domino felling of trees, including danger trees, is prohibited. The definition of domino felling does not include the felling of a single danger tree by felling another single tree into it.

(17) Cutters shall be assigned to work in locations where they are in contact with others or their welfare shall be checked on as provided for by WAC 296-54-507(3).

(18) Persons in charge of cutting crews shall account for all persons in their crews being on hand when work ceases as provided for by WAC 296-54-507(4).

(19) All fallers and buckers shall have a current first-aid card.

(20) All fallers and buckers shall carry or have with them in near proximity at all times, an axe, a minimum of two wedges, a whistle and a first-aid kit. The whistle shall be carried on their person.

(21) While manual felling is in progress, no yarding machine shall be operated within two tree lengths of trees being manually felled. Exception: This provision does not apply to yarding machines performing tree pulling operations or grounding of hazard trees according to WAC 296-54-557(24).

(22) Wedges shall be of soft metal, hardwood or plastic.

(23) Wedges shall be driven with a hammer or other suitable tool. Double-bitted axes or pulaskies shall not be used for this purpose.

(24) While wedging, fallers shall watch for falling limbs or other material that might be jarred loose. Cutting of holding wood in lieu of using wedges is prohibited.

(25) Undercuts are required except in matchcutting, and shall be large enough to safely guide trees and eliminate the possibility of splitting. Trees with no perceptible lean having undercuts to a depth of one-fourth of the diameter of the tree with a face opening equal to one-fifth of the diameter of the tree, will be assumed to be within reasonable compliance with this rule. Swing cuts are prohibited except by an experienced person.

(26) Undercuts shall be completely removed except when a dutchman is required on either side of the cut.

(27) Backcuts.

(a) All backcuts shall be as level as possible and shall leave sufficient hinge wood to hold the tree to the stump until the tree is committed to the path of fall in the intended direction.

(i) The backcut alignment on larger trees shall be approximately two inches above the undercut hinge point to provide a platform to help prevent kickback when the holding wood breaks off.

(ii) On moderate or smaller size trees the backcut alignment shall be above the undercut but can be less than two inches.

(b) In tree pulling operations the backcut may be at or below the undercut hinge point.

(c) A backcut shall be made in each tree being felled.

(28) Trees with face cuts or backcuts shall not be left standing. When a tree is not completely felled, the faller shall clearly mark the tree, shall discontinue work in the hazardous area and notify the immediate supervisor. The supervisor shall be responsible for notifying all workers who might be endangered and shall take appropriate measures to ensure that the tree is safely felled before other work is undertaken in the hazardous area.

(29) To avoid use of wedges, which might dislodge loose bark or other material, snags shall be felled in the direction of lean unless other means (mechanical or dynamite) are used.

(30) Lodged trees shall be clearly marked and identified by a predetermined method and all persons in the area shall

be instructed not to pass or work within two tree-lengths of such trees except to ground them.

(31) Work areas shall be assigned so that a tree cannot fall into an adjacent occupied work area. The distance between work areas shall be at least twice the height of the trees being felled. A greater distance may be required on downhill slopes depending on the degree of the slope and on the type of trees and other considerations.

(32) Where felled trees are likely to roll and endanger workers, cutting shall proceed from the bottom toward the top of the slope, and performed uphill from previously felled timber.

(33) Cutters shall not be placed on a hillside immediately below each other or below other operations where there is probable danger.

(34) Fallers shall be informed of the movement and location of buckers or other cutters placed, passing or approaching the vicinity of trees being felled.

(35) A flagperson(s) shall be assigned on roads where hazardous conditions are created from falling trees. Where there is no through traffic, such as on a dead-end road, warning signs or barricades shall be used.

(36) No tree or danger tree shall be felled by one cutter where and when the assistance of a fellow cutter is necessary to minimize the dangers or hazards involved.

(37) Cutters shall be in the clear as the tree falls.

(38) Undercuts and backcuts shall be made at a height above the highest ground level to enable the cutter to safely begin the cut, control the tree, and have freedom of movement for a quick escape to be in the clear from a falling tree.

(39) When falling, a positive means, method or procedure that will prevent accidental cutting of necessary holding wood shall be established and followed. Particular care shall be taken to hold enough wood to guide the tree or snag and prevent it prematurely slipping or twisting from the stump.

(40) The undercut shall not be made while buckers or other workers are in an area into which the tree could fall.

(41) Matchcutting should not be permitted and shall be prohibited for trees larger than six inches in diameter breast high.

(42) The tree (and root wad if applicable) shall be carefully examined to determine which way the logs (and root wad) will roll, drop, or swing when the cut is completed. No worker shall be allowed in this danger zone during cutting.

(43) Logs shall be completely bucked through whenever possible. If it becomes hazardous to complete a cut, then the log shall be marked and identified by a predetermined method. Rigging crews shall be instructed to recognize such marks and when possible, cutters shall warn the rigging crew of locations where such unfinished cuts remain.

(44) Cutters shall give timely warning to all persons within range of any log which may have a tendency to roll after being cut off.

(45) Propping of logs or trees as a means to protect workers downslope from the logs or trees, shall be prohibited.

(46) Logs shall not be jackstrawed when being bucked in piles or decks at a landing.

(47) The chain saw shall not be used to cut directly over head.

(48) ~~The chain saw operator shall be certain of footing before starting to cut. The chain saw shall not be used in a position or at a distance that could cause the operator to become off balance, to have insecure footing, or to relinquish a firm grip on the saw.)~~ Each machine equipped with ROPS and each vehicle (whether provided by the employee or the employer) must meet the following requirements:

(1) A seat belt must be provided for each vehicle, vehicle occupant, and all machines equipped with ROPS.

Note: An employer is not required to retrofit a machine or vehicle that was not equipped with seat belts at the time of manufacture.

(2) Each employee must use the available seat belt while the vehicle or machine is being operated.

EXCEPTION: During road construction operations ONLY, when road building machine operators are faced with a significant steep and deep cliff on the side, a seat belt is not required to be worn, if the employee's immediate supervisor approves of such action.

(3) Each employee must securely and tightly fasten the seat belt to restrain the employee within the vehicle or machine cab.

(4) Each machine seat belt must meet the requirements of the Society of Automotive Engineers Standard SAE J386, June 1985, "Operator Restraint Systems for Off-Road Work Machines." Seat belts need not be provided for equipment that is designed for stand-up operations.

(5) Seat belts must not be removed from any vehicle or machine. The employer must replace each seat belt that was removed from any vehicle or machine that was equipped with seat belts at the time of manufacture.

(6) Each seat belt must be maintained in a serviceable condition.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

WAC 296-54-531 ((~~Power saws and power equipment.~~) **Motor vehicles.** ((1) Operators shall inspect chain saws daily to ensure that handles and guards are in place, and controls and other moving parts are functional.

(a) Each chain saw placed into initial service after February 9, 1995, shall be equipped with a chain brake and, shall otherwise meet the requirements of the ANSI B175.1, 1991 "Safety Requirements for Gasoline Powered Chain Saws" and the requirements of this chapter; and

(b) Each chain saw placed into service before February 9, 1995, shall be equipped with a protective device that minimizes chain saw kickback i.e., reduced kick back bar, chains, bar tip guard or chain brake; and

(c) No chain saw kick back device shall be removed or otherwise disabled.

(2) Fuel outdoors. The chain saw shall be fueled outdoors at least fifty feet (15.2 meters) from persons smoking or from other potential sources of ignition.

(3) Chain saws shall not be operated unless equipped with a muffler.

~~(4) Chain saws shall be operated and adjusted in accordance with the manufacturer's instructions and the requirements of this chapter.~~

~~(5) Combustion engine type power saws shall be equipped with a positive means of stopping the engine.~~

~~(6) Electric power saws shall be equipped with an automatic (deadman type) control switch. Saws with faulty switches shall not be used.~~

~~(7) Unless the carburetor is being adjusted, the saw shall be shut off before any adjustments or repairs are made to the saw, chain or bar.~~

~~(8) Combustion engine type power saws shall be equipped with a clutch.~~

~~(9) The chain saw clutch shall be properly adjusted to prevent the chain from moving when the engine is at idle speed.~~

~~(10) Power chain saws with faulty clutches shall not be used.~~

~~(11) The bar shall be handled only when the power chain saw motor is shut off.~~

~~(12) Power chain saws shall have the drive end of the bar guarded.~~

~~(13) Combustion engine driven power saws shall be equipped with an automatic throttle control (deadman type), which will return the engine to idle speed upon release of the throttle (idle speed is when the engine is running and the chain does not rotate on the bar).~~

~~(14) When falling of tree is completed, the power saw motor shall be at idle or shutoff. The power saw motor shall also be shutoff while fueling.~~

~~(15) Saw pinching and subsequent chain saw kickback shall be prevented by using wedges, levers, guidelines, and saw placement, or by undercutting.~~

~~(16) The chain saw shall be started at least 10 feet (3 m) from the fueling area.~~

~~(17) Reserve fuel shall be handled and stored in accordance with WAC 296-54-515(11).~~

~~(18) Hand held files shall be equipped with a handle.~~

~~(19) Only experienced cutters shall buck windfalls.~~

~~(20) The chain saw shall be started on the ground or where otherwise firmly supported. Drop starting a chain saw is prohibited.~~

~~(21) Chain saws equipped with chain brakes shall be started with the chain brake engaged.~~

~~(22) The chain saw shall be held with the thumbs and fingers of both hands encircling the handles during operation unless the employer demonstrates that a greater hazard is posed by keeping both hands on the chain saw in that particular situation.~~

~~(23) The chain saw shall be carried in a manner that will prevent operator contact with the cutting chain and muffler.~~

~~(24) The chain saw shall be shut off or at idle before the feller starts to retreat.~~

~~(25) The chain saw shall be shut down or the chain brake shall be engaged whenever a saw is carried further than 50 feet (15.2 m). The chain saw shall be shut down or the chain brake shall be engaged when a saw is carried less than 50 feet if conditions such as, but not limited to, the terrain, underbrush and slippery surfaces, may create a hazard for an~~

employee.)) (1) The seats of each vehicle must be securely fastened.

(2) Each school bus type vehicle that will transport nine or more passengers must have a substantial barricade behind the driver. The barricade must extend from the floor to at least a level even with the top of the driver's head.

(3) Adequate provision must be made for safe entrance and exits. Each vehicle must have mounting steps and handholds wherever it is necessary to prevent an employee injury when entering or leaving the vehicle.

(4) When equipment or tools are carried inside the vehicle, the employer must provide and use racks, boxes, holsters or other means to transport tools so that a hazard is not created for any vehicle operator or passenger.

(5) No one may enter or exit any vehicle until the vehicle is completely stopped.

(6) Employees must keep all parts of the body within the vehicle.

(7) Heat and light must be available in the passenger area of the vehicle. Use of stoves in vehicles is prohibited.

(8) Vehicles designed to transport nine or more passengers must have an emergency exit that:

(a) Is at least six and one-half square feet in area, with the smallest dimension being at least 18 inches;

(b) Is placed at the back of the vehicle or near the back on the side opposite the regular entrance; and

(c) Has an unobstructed route to and from the exit.

(9) When no fuel is transported in the crew vehicle, a minimum rated 5/BC dry chemical fire extinguisher must be kept in the passenger compartment. When fuel is transported on the crew vehicle according to subsection (12) of this section, a minimum rated 10/BC dry chemical fire extinguisher must be kept in the passenger compartment. The extinguishing agent must be nontoxic and preferably noncorrosive.

(10) Exhaust systems must be designed and maintained to eliminate the exposure of passengers to toxic agents.

(11) Operating and maintenance instructions must be available in each vehicle. Each vehicle operator and maintenance employee must comply with the operating and maintenance instructions.

(12) Fuel must be transported or stored only in approved safety containers. Enclosed areas where fuels are carried or stored must be vented so that a hazardous concentration of fumes cannot accumulate. All containers or drums must be properly secured to the vehicle while being transported. Commercially built pick-up or flatbed trucks with a maximum seating capacity of six persons may be used to carry fuel in or on the bed of such vehicles, if the fuel is not carried in the crew compartment. Van-type vehicles may be used to carry fuel only when a vapor-proof bulkhead is installed between the passenger compartment and storage compartment. A maximum of forty-two gallons of gasoline may be carried or stored in the compartment and each container must have a maximum capacity seven gallons.

(13) Motor vehicles used regularly to transport employees must be covered against the weather and equipped and operated according to applicable state of Washington motor vehicle laws.

(14) All operators of crew vehicles must be experienced drivers and have a valid operator's license for the class of vehicle being operated.

(15) Dump trucks must only be used in an emergency to transport workers and have adequate safety chains or locking devices that eliminate the possibility of the body of the truck being raised while employees are riding in the truck. "Emergency" means any unforeseen circumstances that call for immediate action when danger to life or danger from fire exists.

(16) An effective means of signaling must be provided for communication between the driver and the passengers being transported when they are in separate compartments.

(17) The passenger load limit of a crew vehicle must not exceed the seating capacity of the vehicle.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-533 ((Falling and bucking—Springboards and tree jacking.)) Truck roads. (((1) Springboards shall be of clear, straight grained sound stock of sufficient length, width and strength and shall be replaced when they will no longer safely support the expected load at the extreme end:**

(2) ~~Springboard irons shall be well lipped and firmly attached with bolts or a means of attachment furnishing equivalent strength.~~

(3) ~~Two workers shall be present when falling any tree or snag when springboards are used.~~

(4) ~~Power saw chains shall be stopped while shifting springboards.~~

(5) ~~Jack plates shall be used with hydraulic tree jacks and the base plate shall be seated on solid wood inside the bark ring as close to level as possible.~~

(6) ~~Two workers shall be present at all times during the use of tree jacks.~~

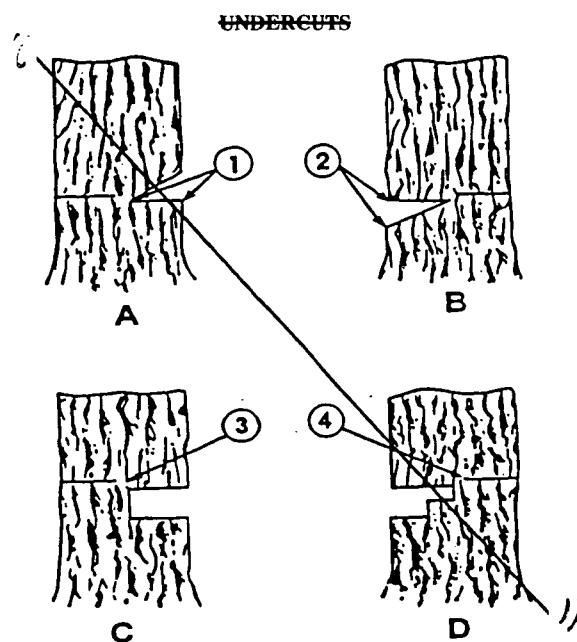
(7) ~~Wedges shall be used as a follow up method while using tree jacks. The wedges shall be continuously moved in as the tree is jacked.~~

(8) ~~Effective January 1, 1980, all hydraulic tree jacks shall be equipped with an operable velocity fuse (check valve) and the pump shall be equipped with an operable pressure gauge.~~

(9) ~~When tree jacking, the facecut shall be nominally one-fourth the diameter of the tree.~~

(10) ~~The vertical height of the facecut shall be not less than one-fifth of the diameter of the tree when tree jacking.~~

Note: See Figure No. 1, for illustrations of undercuts.



(A) ~~Conventional undercut.~~ Can be made with parallel saw cut and axe diagonal cut or both cuts with the saw. Generally used on trees of small diameter.

(B) ~~Both cuts made with the saw.~~ Leaves square end log. Same as (A), except that waste is put on the stump.

(C) ~~Two parallel cuts with the saw.~~ The material between the cuts is chipped out with an axe adz (pulaski) combination. Used on trees over 30 inches in diameter.

(D) ~~Three parallel cuts with the saw, leaving a step.~~ Same in principle as (C). Used on trees of very large diameters.

**Item**

- 1 Undercut depth
- 2 Undercut height
- 3 Holding wood
- 4 Backcut))

(1) Haul road grades must not exceed 20 percent unless:  
 (a) Special equipment and safety measures are used to accommodate the steep grade; or

(b) The logging equipment or truck is specifically designed and approved by the manufacturer for operation on grades over twenty percent.

(2) Truck road surfaces must meet the following requirements:

(a) Truck roads are wide enough and even to ensure the safe operation of equipment.

(b) Hazards such as broken planking, deep holes, large rocks, logs, etc., that make equipment operation unsafe, must be immediately corrected.

(c) On blind curves, one of the following must be implemented:

PERMANENT

(i) Truck roads are wide enough for two trucks to pass;  
 (ii) A signal system is maintained; or  
 (iii) Speed is limited so that the vehicle can be stopped in one-half the visible distance.

(3) For all portions of roads under the direct control of the employer, the employer must ensure that:

(a) All danger trees are fell a safe distance back from the roadway;

(b) Rocks that present a hazard are cleared from banks; and

(c) Brush and other materials that obstruct the view at intersections or on sharp curves are cleared.

(4) All bridge structures used in the logging operation must meet the following requirements:

(a) Structures are adequate to support the maximum imposed loads without exceeding the maximum safe working unit stresses;

(b) Bridges have an adequate number of reflectors to clearly define the entrance to the bridge;

(c) Structures are maintained in good condition and repair;

(d) Structures are inspected at least annually by a qualified authorized person; and

(e) A record maintained of each inspection must be available to a representative of the department on request.

(5) Shear rails must be installed on both outside edges of bridges. The shear rails must be securely fastened and made of material able to withstand the impact generated by contact with the wheels of a loaded vehicle. The top of shear rails must be at least fifteen inches above the bridge surface. Bridges in use before 1980 with outside shear rails a minimum of ten inches high or center shear rails at least five inches high are permissible until repairs are needed.

(6) The employer must implement measures that minimize dust to the degree that visibility is sufficient to allow an operator to safely operate a vehicle. Vehicle operators must travel at a speed consistent with road conditions.

(7) Pneumatic-tired equipment must have fenders as described in the Society of Automotive Engineers Technical Report J321a.

(8) Employee(s) must be assigned to flag on roads or provide other equivalent protection where hazardous conditions are created from logging such as but not limited to:

(a) Running wire rope lines or rigging across road grades, excluding guylines and standing skylines if lines remain a safe distance above the road to allow a vehicle to pass under; or

(b) The movement of logs, chunks, or debris across or suspended over road grades.

EXCEPTION: Where there is no through traffic, such as on a dead end road or where the property owner's permission or proper authority is granted to close a section of road, warning signs and barricades may be used instead of flagger(s).

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-535 ((Free pulling-)) Road pioneering and earthwork.** ((1) The cutter shall be responsible for

determining if a tree can be safely pulled. If, for any reason, the cutter believes the tree pulling cannot be completed safely, the tree shall be conventionally felled.

(2) When using radio positive radio communications shall be maintained at all times between the tree pulling machine and cutter when tree pulling. An audible signal shall be blown when the initial pull is made on the tree and the line is tightened. Hand signals, in lieu of radio communications and an audible signal, may be used only if the cutter is clearly visible to the tree puller operator.

(3) A choker, with bell, or a line and sleeve shackle shall be used as the means of attachment around the tree when tree pulling. The bight on the line shall be only that necessary to hold the choker or line around the tree.

(4) The tree pulling machine shall be equipped with a torque converter, fluid coupler, or an equivalent device to insure a steady even pull on the line attached around the tree.

(5) The tree pulling line shall have as straight and direct path from the machine to the tree as possible. Physical obstructions which prevent a steady even pull on the tree pulling line shall be removed or the line shall be rerouted.

(6) Siwashing, in lieu of a block, in order to change tree pulling lead, is prohibited.) (1) Banks at the borrow area must be sloped to prevent slides.

(2) Backfill must be firmly compacted.

(3) Roadside banks must be sloped or stabilized to prevent slides.

(4) Overhanging banks, large rocks and debris must be removed or secured.

(5) Where riprap is used, the material and design must ensure containment of material.

(6) Trees or snags that may fall into the road must be fell.

(7) Root wads, logs, and other unstable debris must not be placed against standing timber or otherwise placed so as to create a hazard for timber falling or other logging operations.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-537 ((Mechanized falling-)) Chain saws.** ((1) When using selfpropelled mobile falling devices, a watchman and/or warning signs shall be posted at appropriate locations indicating that devices of this type are being used to fall trees.

(2) Self-propelled mobile falling equipment used for falling trees shall be designed in a manner or shall have auxiliary equipment installed which will cause the tree to fall in the intended direction.

(3) Mechanized falling shall be conducted in such a manner as not to endanger persons or equipment.

(4) Where a mechanized feller incorporates a cab structure having a single entrance door, it shall be equipped with an alternate means of escape from the cab should the door be blocked in the event of vehicle rollover or fire. Cab doors shall be fitted with latches operable from both sides of the door.

(5) No employee shall approach a mechanical felling operation closer than two tree lengths of the trees being felled until the machine operator has acknowledged that it is safe to do so.) (1) Operators must inspect chain saws daily to ensure

that handles and guards are in place, and controls and other moving parts are functional.

(a) Each chain saw placed into initial service after February 9, 1995, must be equipped with a chain brake and, shall otherwise meet the requirements of ANSI B175.1-1991 "Safety Requirements for Gasoline-Powered Chain Saws" and the requirements of this chapter;

(b) Each chain saw placed into service before February 9, 1995, must be equipped with a protective device that minimizes chain saw kickback, i.e., reduced kick back bar, chains, bar tip guard, or chain brake; and

(c) No chain saw kick back device shall be removed or otherwise disabled.

(2) Saw pinching and subsequent chain saw kickback must be prevented by using wedges, levers, guidelines, and saw placement, or by undercutting.

(3) Chain saws must be:

(a) Shutoff while fueling;

(b) Fueled outdoors at least ten feet from anyone smoking or from other potential sources of ignition; and

(c) Started at least 10 feet (3 m) from the fueling area.

(4) Chain saws must have a positive means of stopping the engine.

(5) Unless the carburetor is being adjusted, the chain saw must be shut off before any adjustments or repairs are made to the saw, chain, or bar.

(6) Using a chain saw with a faulty clutch is prohibited.

(7) The bar must be handled only when the chain saw motor is shut off.

(8) The drive end of the chain saw bar must be guarded.

(9) The chain saw must have an automatic throttle control that will return the engine to idle speed when the throttle is released.

Note: Idle speed is when the engine is running and the chain does not rotate on the bar.

(10) The chain saw must be started on the ground, log or where otherwise firmly supported. Drop starting a chain saw is prohibited.

(11) A chain saw must be held with the thumbs and fingers of both hands encircling the handles during operation unless the employer demonstrates that a greater hazard is posed by keeping both hands on the chain saw in a specific situation.

(12) The chain saw must be carried in a manner that will prevent operator contact with the cutting chain and muffler.

(13) The chain saw must be shut off or at idle before the faller starts to retreat.

(14) The chain saw must be shut down or the chain brake engaged whenever a saw is carried:

(a) Further than 50 feet (15.2 m); or

(b) Less than 50 feet if conditions such as, but not limited to, the terrain, underbrush, and slippery surfaces, may create a hazard for an employee.

(15) Using a chain saw to cut directly over head is prohibited.

(16) The chain saw operator must be certain of footing before starting to cut. The chain saw must not be used in a position or at a distance that could cause the operator to

become off-balance, to have unsteady footing, or to relinquish a firm grip on the saw.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

WAC 296-54-539 ((Climbing equipment and passline)) ~~Falling and bucking—General.~~ (((1) Standard climbing equipment shall be furnished by the employer; however, this shall not be construed to mean that the climber may not use personal equipment, provided it meets the following standards and is permitted by the employer. The climbing ropes shall be of steelcore type. The climber may fasten climbing rope by passing it through "D" rings fastened to the belt and around his body before tying it to itself. When topping standing trees, it is recommended that a steel chain of 3/16 inch or larger, with appropriate fittings attached, shall be used in addition to the climbing rope. All climbing equipment shall be maintained in good condition. An extra set of climbing equipment shall be kept at the climbing operation and another person with climbing experience shall be present.

~~(2) A person shall ride only the passline to thread lines, oil blocks or to inspect rigging.~~

~~(3) No one shall work directly under a tree except when directed by the climber. Warning shall be given prior to intentionally dropping any objects or when objects are accidentally dropped.~~

~~(4) Running lines shall not be moved while the climber is working in the tree, except such "pulls" as climber directs and are necessary for the work.~~

~~(5) One experienced person shall be dispatched to transmit the climber's signals to the machine operator and shall not otherwise be occupied during the time the climber is in the tree, nor shall the machine operator be otherwise occupied while the climber is using the passline. The designated signal person shall position themselves clear of hazards from falling, flying or thrown objects.~~

~~(6) Long or short splices and knots in passline are not permitted. Chains used in passlines shall be in good condition and shall not contain cold shuts or wire strands.~~

~~(7) The climber shall be an experienced logger with proper knowledge of logging methods and the safety of rigging spar and tail trees.~~

~~(8) Trees shall not be topped during windy weather.~~

~~(9) At no time shall topping, rigging up, or stripping work be done when visibility is impaired.~~

~~(10) When the friction lever and passline drum is on the opposite side of the machine from the operator, an experienced person shall operate the friction lever while the engineer operates the throttle. While being used, the passline drum shall be properly attended by another person to guide the passline onto the passline drum with a tool suitable for the purpose.~~

~~(11) The use of a gypsy drum for handling persons in the tree is prohibited.~~

~~(12) Danger trees leaning towards and within reach of landings, roads, rigging or work areas shall either be felled before the regular operations begin or work shall be arranged so that workers will not be exposed to hazards involved.~~

(13) Noisy equipment such as power saws, tractors and shovels shall not be operated around the area where a climber is working when such noise will interfere with the climber's signals.

(14) Climbing and passline equipment shall not be used for other purposes.

(15) Defective climbing equipment shall be immediately removed from service.

(16) ~~The climber shall be equipped with a climbing equipment assembly having a breaking strength of not less than five thousand four hundred pounds.~~

The equipment shall include:

(a) A safety belt with double "D" rings;

(b) Steel spurs long and sharp enough to hold in any tree in which they are used; and

(c) A climbing rope made of wire core hemp, wire or chain construction.

(17) When the climber is using a chain saw in the tree, the climbing rope shall be made of material that cannot be severed by the saw.

(18) Lineman hooks shall not be used as spurs.

(19) ~~When power saws are used in topping or limbing standing trees, the weight of the saw shall not exceed thirty pounds.~~

(20) ~~Tools used by the climber, except the power saw, shall be safely secured to climber's belt when not in use.~~

(21) ~~Snaps shall not be used on a climber's rope unless a secondary safety device between the belt and snap is used.~~

(22) ~~A climber's rope shall encircle the tree before the climber leaves the ground except when the climber is riding the passline.~~

(23) While the climber is working in the tree, persons shall keep at sufficient distance from the tree to be clear of falling objects.

(24) ~~When used, passline fair leads shall be kept in alignment and free from fouling at all times.~~

(25) ~~Spikes, used by the climber as a temporary aid in hanging rigging, shall be removed before the tree is used for logging.~~

(26) ~~Loose equipment, rigging or material shall either be removed from the tree or securely fastened.~~

(27) All spar trees shall be equipped with passlines that shall:

(a) Be not less than 5/16-inch and not be over 1/2-inch in diameter;

(b) Not be subjected to any sawing on other lines or rigging, and kept clear of all moving lines and rigging;

(c) Be of one continuous length and in good condition with no splices, knots, molles, or eye to eye splices between the ends;

(d) Be long enough to provide three wraps on the drum before the climber leaves the ground.

(28) ~~Drums used for passlines shall have sufficient flange depth to prevent the passline from running off the drum at any time.~~

(29) Passline chains shall:

(a) Be not less than 5/16-inch alloy or 3/8-inch high test chain and shall not contain cold shuts or wire strands;

(b) Be attached to the end of the passline with a screw pin shackle, a slip pin shackle with a nut and molle, or a ring large enough to prevent going through the pass block; and

(c) Be fitted with links or rings to prevent workers from being pulled into the passline block.

(30) Pass blocks shall:

(a) Be inspected before placing in each spar and the necessary replacements or repairs made before they are hung;

(b) Have the shells bolted under the sheaves;

(c) Have the bearing pin securely locked and nuts keyed or the block be of the type which positively secures the nut and pin;

(d) Equipped with sheaves not less than six inches in diameter; and

(e) Comply with applicable portions of WAC 296-54-543(6) pertaining to blocks.

(31) When workers are required to go up vertical metal spars, passlines, chains and blocks shall be provided and used:)) (1) The employer must assign work areas so that:

(a) Trees cannot fall into an adjacent occupied work area;

(b) The distance between work areas is at least two tree lengths of the trees being fell (see Figure 1: Distance Between Work Areas);



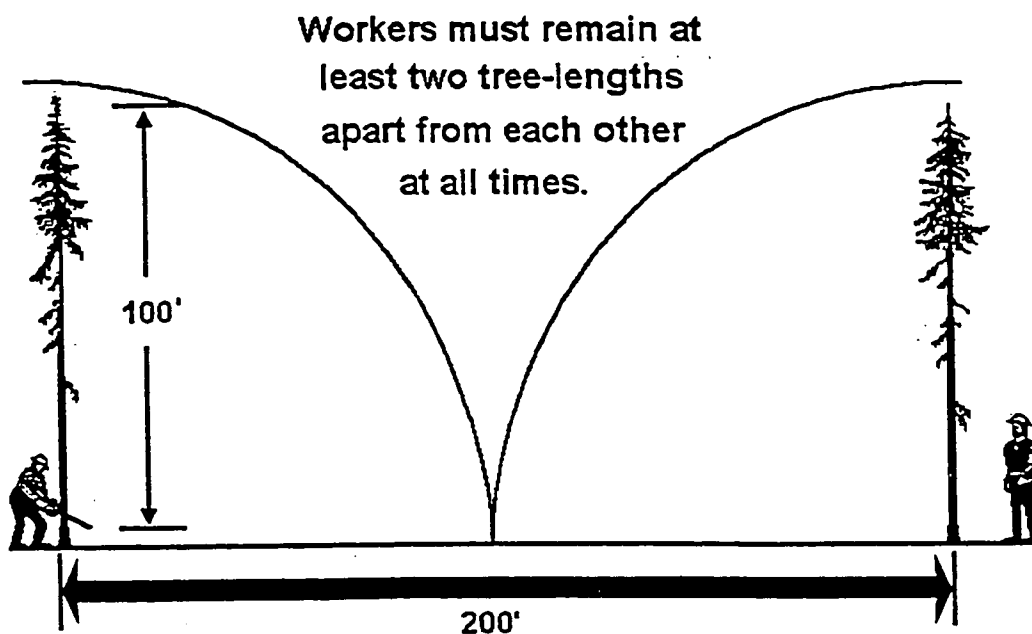


Figure 1: Distance Between Work Area

(c) The distance between work areas reflects the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at the worksite; and

(d) A distance of more than two tree lengths is maintained between work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

EXCEPTION: This rule does not apply to a team of cutters working on the same tree.

(2) Before falling or bucking, conditions such as, but not limited to, snow and ice accumulation, the wind, the lean of tree, dead limbs, and the location of other trees, must be evaluated by the cutter and precautions taken so a hazard is not created for an employee. Accumulations of snow and ice that may create a hazard for an employee must be removed before beginning falling in the area, or the area must be avoided.

(3) Employees must not approach a cutter closer than two tree lengths of trees being felled until the cutter has acknowledged that it is safe to do so.

(4) A competent person, properly experienced in this type of work, must be placed in charge of falling and bucking operations. Inexperienced workers must not be allowed to fall timber, buck logs or windfalls unless working under the direct supervision of an experienced cutter.

(5) Trees must not be fell if the falling tree can strike any line in the logging operation and endanger workers.

(6) Before an employee falls or bucks any tree:

(a) A sufficient work area must be swamped;

(b) The cutter must plan and clear an escape path; and

(i) The escape path must extend diagonally away from the expected felling line unless such an escape path poses a greater hazard than an alternate escape path; and

(ii) An escape path must be used as soon as the tree or snag is committed to fall, roll, or slide.

(7) If a cutter has determined a tree cannot be safely fell, the work must stop until the cutter has conferred with a supervisor or an experienced cutter and determined the safest possible work method or procedure.

(8) The person in charge of cutting crews must regularly inspect the work of the cutting crews and is responsible to ensure the work is performed in a proper and safe manner.

(9) All cutters must carry or have in near proximity at all times:

(a) An axe or suitable tool for driving wedges;

(b) A minimum of two wedges;

(c) A whistle carried on the person; and

(d) A first-aid kit.

(i) The first-aid kit must contain at least two trauma bandages or equivalent absorbent gauze material and a means to secure the material in place.

(ii) First aid supplies must be kept clean and dry.

(10) A flagperson(s) must be assigned on roads where hazardous conditions are created from falling trees. Where there is no through traffic, such as on a dead end road, warning signs or barricades may be used instead of a flagperson(s).

(11) A cutter must not fall a tree or danger tree alone when at least two cutters are necessary to minimize hazards.

#### NEW SECTION

##### **WAC 296-54-53910 Falling and bucking—Falling.**

(1) Where felled trees are likely to roll and endanger workers, cutting must proceed from the bottom toward the top of the slope, and uphill from previously fell timber.

(2) A cutter must not be placed on a hillside immediately below another cutter or below other logging operations where there is probable danger.

(3) Cutters must be informed of the movement and location of other employees placed, passing, or approaching the vicinity of trees being fell.

(4) Cutters must give audible warning when falling trees, and:

- (a) Indicate the direction of fall;
- (b) Ensure that all employees are out of reach of the tree; and

(c) Ensure that all employees are in clear of logs, fallen trees, snags, or other trees that may be struck by the falling tree.

**EXCEPTION:** Audible warnings are not required when falling trees less than 18 inches DBH, if the cutter has an unobstructed view of the entire area that could be affected by the tree being fell and is assured there is no one within the area.

(5) While manual falling is in progress, all logging machines must be operated at least two lengths away from trees being manually fell.

**EXCEPTION:** This provision does not apply to logging machines performing tree pulling operations or logging machines called upon by the cutter to ground hazard trees. All cutters must be notified of the logging machine's entrance into the area and all falling within two tree lengths of the logging machine must stop.

(6) Trees must be fell into the open whenever conditions permit.

(7) Cutters must not fall into another strip; trade leaners on the line.

(8) Knocking over trees larger than six inches in diameter in lieu of cutting is prohibited, except as provided in WAC 296-54-53910(9).

(9) Domino falling of trees, including danger trees, is prohibited. Domino falling does not include the falling of a single danger tree by falling another single tree into it.

(10) Undercuts large enough to safely guide trees and eliminate the possibility of splitting must be used on all trees over 6 inches DBH.

For example: A tree with no perceptible lean, having an undercut depth of one-fourth of the diameter of the tree and a face opening equal to one-fifth of the diameter of the tree would meet the requirement.

(11) A cutter must place an adequate undercut and leave enough holding wood to ensure the tree will fall in the intended direction.

(12) The two cuts that form the undercut must not cross where they meet, except where a dutchman is required on either side of the cut.

(13) The undercut must not be made while other workers are in an area into which the tree could fall.

(14) A backcut must be made in each tree being fell.

(a) The backcut must be as level as possible;

(b) The backcut must leave enough hinge wood to hold the tree to the stump during most of its fall so that the hinge is able to guide the tree's fall in the intended direction; and

(c) The backcut must be above the level of the horizontal facecut to provide an adequate platform to prevent kickback.

**EXCEPTION:** This requirement does not apply to open-faced falling where two angled facecuts are used instead of a horizontal facecut.

(d) In tree-pulling operations the backcut may be at or below the undercut hinge point.

(15) Cutting holding wood instead of using wedges is prohibited. Swing cuts are prohibited except by an experienced person.

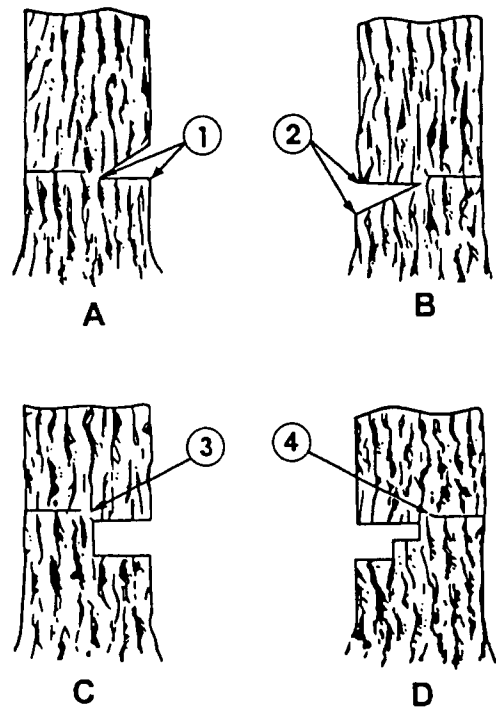
(16) Trees with face cuts and/or backcuts must not be left standing unless all the following conditions are met:

- (a) The cutter clearly marks the tree;
- (b) Discontinues work in the hazardous area;
- (c) Notifies all workers who might be endangered; and
- (d) Takes appropriate measures to ensure that the tree is safely fell before other work is undertaken in the hazardous area.

(17) Undercuts and backcuts must be made at a height above the highest ground level to enable the cutter to safely begin the cut, control the tree, and have freedom of movement for a quick escape from a falling tree.

(18) Lodged trees must be clearly marked and identified by a predetermined method and all persons in the area must be instructed not to pass or work within two tree lengths of the trees except to ground them.

**Note:** See Figure No. 2, for illustrations of undercuts.



**FIGURE 2: UNDERCUTS**

- (A) **Conventional undercut.** Can be made with parallel saw cut and axe diagonal cut or both cuts with the saw. Generally used on trees of small diameter.
- (B) **Humboldt undercut.** Leaves square-end log. Same as (A), except that waste is put on the stump.

PERMANENT

- (C) *Two parallel cuts with the saw. The material between the cuts is chopped out with an axe-adz (pulaski) combination. Used on trees over 30 inches in diameter.*
- (D) *Three parallel cuts with the saw, leaving a step. Same in principle as (C). Used on trees of very large diameters.*

	Item
1	Undercut depth
2	Undercut height
3	Holding wood
4	Backcut

**NEW SECTION**

**WAC 296-54-53920 Falling and bucking—Bucking.**

(1) The tree (and root wad if applicable) must be carefully examined to determine which way the logs (and root wad) will roll, drop, or swing when the cut is completed. No worker shall be allowed in this danger zone during cutting. The cut must be made from a position that will not expose the cutter to potential injury.

(2) Logs must be completely bucked through whenever possible. If it becomes hazardous to complete a cut, then the log must be marked and identified by a predetermined method. Rigging crews must be instructed to recognize such marks and when possible, cutters must warn the rigging crew of locations where unfinished cuts remain.

(3) Cutters must give timely warning to all persons within range of any log that may have a tendency to roll after being cut off.

**NEW SECTION**

**WAC 296-54-53930 Falling and bucking—Danger trees.**

(1) Each danger tree must be carefully checked for signs of loose bark, broken branches and limbs, or other damage before they are fell or removed. Accessible loose bark and other damage that may create a hazard for an employee must be removed or held in place before falling or removing the tree. When a danger tree has elevated loose bark that cannot be removed, the buddy system must be used to watch for and give warning of falling bark or other hazards.

(2) Danger trees that are unsafe to cut must be blown down with explosives or fell by other safe methods.

(3) To avoid use of wedges, which might dislodge loose bark or other material, danger trees must be fell in the direction of lean unless other means (mechanical or dynamite) are used.

**NEW SECTION**

**WAC 296-54-53940 Falling and bucking—Springboards and tree jacking.**

- (1) Springboards must be:
  - (a) Made of clear, straight grained sound stock;
  - (b) Long enough, wide enough, and strong enough; and
  - (c) Replaced when they will no longer safely support the expected load at the extreme end.

(2) Springboard irons must be well lipped and firmly attached with bolts or other equally strong attachment.

(3) Saw chains must be stopped while shifting springboards.

(4) Jack plates must be used with hydraulic tree jacks and the base plate must be seated on solid wood inside the bark ring as close to level as possible.

(5) When necessary, two workers must be present at the tree during hydraulic tree jacking to lend assistance.

(6) Wedges must be used as a follow-up method while using tree jacks, and continuously moved in as the tree is jacked.

(7) All hydraulic tree jacks must be equipped with a check valve and the pump must be equipped with an operable pressure gauge.

(8) Jacking a tree straight uphill is prohibited when the tree may slide back past the stump.

(9) On slopes over 50% grade, tree(s) must at least be quartered to a degree that prevents employees from being exposed to the possibility of sliding or rolling trees or logs.

**AMENDATORY SECTION** (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-541 ((Selection of spar, tail and intermediate trees.)) Tree pulling. ((1) Douglas fir or spruce shall be used as spar, tail, or intermediate support trees when they are available. If other species must be used, additional guylines, tree plates, or other precautions shall be taken to insure the tree will withstand the strains to be imposed.**

~~(2) Spar, tail and intermediate support trees shall be examined carefully for defects before being selected. They shall be sound, straight, green and of sufficient diameter to withstand the strains to be imposed.~~

~~(3) Trees having defects that impair their strength shall not be used for spar, tail or intermediate support trees. Raised trees shall be identified and marked as such.~~

~~(4) Before raising spar trees, dummy trees shall be topped and guyed with three guylines equivalent in breaking strength to the mainline.)) (1) The cutter must be responsible for determining if a tree can be safely pulled. If, for any reason, the cutter believes the tree pulling cannot be completed safely, the tree must be conventionally fell.~~

(2) When using a radio, positive radio communications must be maintained at all times between the tree pulling machine and cutter when tree pulling. An audible signal must be blown when the initial pull is made on the tree and the line is tightened. Hand signals, instead of radio communications and an audible signal, may be used only if the cutter is clearly visible to the tree puller operator.

(3) A choker with bell, or a line and sleeve shackle must be used as the means of attachment around the tree when tree pulling. (See also WAC 296-54-54710(4).) The bight on the line must be the minimum necessary to hold the choker or line around the tree.

(4) The tree pulling machine must be equipped with a torque converter, fluid coupler, or an equivalent device to ensure a steady even pull on the line attached around the tree.

(5) The tree pulling line must have as straight and direct path from the machine to the tree as possible. Physical

PERMANENT

obstructions that prevent a steady even pull on the tree pulling line must be removed or the line must be rerouted.

(6) Siwashing, in lieu of a block, in order to change tree pulling lead, is prohibited.

**AMENDATORY SECTION** (Amending Order 80-15, filed 8/20/80)

**WAC 296-54-543 ((General requirements.)) Mechanized falling. (((1) Rigging.**

(a) Rigging shall be arranged and operated so rigging or loads will not foul, or saw against lines, straps, blocks or other equipment.

(b) A thorough inspection of all blocks, straps, guylines and other rigging shall be made before they are placed in positions for use. Inspections shall include an examination for damaged, cracked or worn parts, loose nuts and bolts, and of lubrication, and the condition of straps and guylines. All necessary repairs or replacements for safe operation shall be made before the rigging is used.

(c) Rigging equipment, when not in use, shall be stored so as to not present a hazard to employees.

(d) Running lines shall be arranged so workers will not be required to work in the bight. When this is not possible, workers shall move out of the bight of lines before the lines are tightened or moved.

**(2) Shackles.**

(a) Shackles with screw pins should have either a molle or cotter key when used to fasten guylines to spar trees.

(b) All shackles used to hang blocks, jacks, or rigging on trees or loading booms shall have the pins fastened by a nut secured with a cotter pin or molle. When used, molles shall be as large as the pin hole will accommodate and with the loose ends rolled in.

(c) The size of the opening between the jaws of shackles used to hang blocks, jacks, rigging, and for joining or attaching lines, shall not be more than one inch greater than the size of the rope, swivel, shackle, or similar device to which it is attached.

(d) All shackles used for mainline or skyline extensions shall be of a type designed for that purpose.

(e) Shackles used other than for mainline extension connections, shall be of the screw pin type or with the pin secured by a nut and cotter pin or molle, except as specified elsewhere for specific purposes.

(f) Shackles, swivels, links and tree plates shall be replaced or repaired when they will not safely support the imposed strains of their intended use.

(g) Shackles shall not be loaded in excess of the working load recommended by the manufacturer.

(h) All shackles must be made of forged steel or material of equivalent strength and one size larger than the line it connects.

**(3) Straps.**

(a) Safety straps of appropriate size shall be placed on all high lead blocks; also other blocks whenever practicable. Safety straps shall be shackled, with closed end of shackle up, to a guyline which extends as near as possible at right angles with power unit, but shall not be placed on a guyline having an extension within one hundred feet of the tree. When the

top guyline on which the safety strap of the high lead block is fastened is changed, safety strap must be attached to another guyline or loosened guyline tightened after change.

(b) All tree straps shall be at least 1/4 inch larger than the pulling line. If impossible to use safety strap, all tree straps shall be 1/2 inch larger than the pulling line.

(c) All straps in back of show must be as large as the running line.

(d) All blocks other than passline and straw line lead blocks shall be hung in both eyes or "D's" of straps. Threading eye through eye is prohibited.

(e) Skyline jack shall not be hung by double strap through shackle and hanging jack in two eyes.

(f) Tree straps shall initially be made of new wire rope when made up. They shall be replaced when there is evidence of damage or broken wires.

(g) A guyline safety strap or equivalent device shall be installed at the top of metal spars to prevent guylines from falling more than five feet in case of structural or mechanical failure of the guyline attachment.

(h) Metal spar guyline safety straps or equivalent devices shall be equal to the strength of the guyline.

(i) Nylon straps may be used in accordance with manufacturer recommendations.

(j) Nylon straps shall be removed from service when the wear reaches the limits prescribed by the manufacturer. The person responsible for inspecting the condition of rigging shall be aware of these limits.

**(4) Guylines.**

(a) All component parts of the guyline system on head tree shall be of equal or greater strength than the mainline and guylines shall be properly spaced to effectively oppose the pull of the mainline.

(b) Guylines on wood spar trees shall be secured to solid stumps with not less than two and one-half complete wraps with at least six staples or eight railroad spikes driven solidly into sound wood on the first and last wrap. The bark shall be removed and the stump adequately notched or other equivalent means shall be used to prevent movement of the line on the stump or tree. Guyline stumps shall be inspected periodically. Guylines may be secured to properly installed "dead men" when suitable stumps are not available. It is permissible, on the tail tree, to secure the guylines by placing three wraps around a tree or stump and securing them properly by use of clamps.

(c) When a mainline of 7/8 inch or less is used, the spar shall be supported by at least five top guylines or other positive means of supporting the spar.

(d) When tail hold on skyline is choked on stump, there shall be no excessive bight against shackle.

(e) In removing guylines and skylines from stumps, etc.:

(i) A reversed safety wrap shall be put on and secured before loosening the last wrap.

(ii) An experienced person shall be in charge loosening guylines or skylines using proper precautions, and giving warning before lines are released.

(iii) Safety holdbacks shall be used when necessary for the safety of workers.

(iv) Powder or power shall be used for releasing the last wrap on skylines.

(f) Guylines shall be used with any logging equipment when required by the equipment manufacturer.

(g) Guying shall not be less than the minimum recommended by the equipment manufacturer.

(h) Top guys on vertical metal and wooden spars which require five or more guylines shall be so arranged that at least three guys oppose the pull of the load, with at least one guyline anchored adjacent to the yarding quarter.

(i) Guylines shall be of plow steel or better material, and shall be maintained in good condition.

(j) When side blocking or lateral yarding, lateral stability to the head spar tree shall be insured by guylines sufficient in number, breaking strength and spacing.

(k) All guylines shall be kept well tightened while the spar, tree, equipment or rigging they support is in use.

(l) All trees that interfere with proper alignment, placement or tightening of guylines shall be felled.

(m) Guylines shall be hung in a manner to prevent a bight or fouling when they are tightened.

(n) All spliced guyline eyes shall be tucked at least three times.

(o) Extensions to guylines shall be:

(i) Equal in strength to the guyline to which they are attached; and

(ii) Connected only by a shackle connecting two spliced eyes or by double end hooks. Connections shall have at least one and one-half times the strength of the guyline.

(p) Portable metal spars and their appurtenances shall be inspected by a qualified person each time the spar is lowered and at any time its safe condition is in doubt. When damage from over-stress is noted or suspected, the part in question shall be inspected by a suitable method and found to be safe, or the part repaired or replaced before the spar is again used.

(q) No person shall go up a raised metal spar unless suitable passline equipment is provided and used.

(r) Repairs, modifications or additions which affect the capacity or safe operation of metal spars shall be made only under the direction of a registered engineer and within the manufacturer's recommendations.

(i) In no case shall the original safety factor of the equipment be reduced.

(ii) If such modifications or additions are made, the identification plate required by WAC 296-54-553(1) shall reflect such changes.

(s) When using skylines 7/8-inch or smaller, tail trees shall be supported by at least two guylines when the rigging is placed on the tail tree at a height greater than five times the tree diameter (dbh) or higher than ten feet from the highest ground point, whichever is lower.

(t) When using skylines one inch or larger, tail trees shall be supported by at least four guylines when the rigging is placed on the tail tree at a height greater than five times the tree diameter (dbh) or higher than ten feet from the highest ground point whichever is lower.

(u) Tail trees shall be supported by additional guylines if necessary to insure stability of the tree.

(v) Wood head spar trees shall be guyed as follows:

(i) All spar trees one hundred ten feet and over in height shall be provided with a minimum of six top guys and three buckle guys, each of which shall be substantially equal in

strength to the strength of the mainline. This requirement, however, shall not be construed as applying where more than three buckle guys are specifically required.

(ii) Spar trees used for loading and yarding at the same time, or for loading and swinging at the same time, or supporting a skyline yarding system, shall have not less than six top and four buckle guylines each of which shall be substantially equal in strength to the strength of the mainline.

(iii) Spar trees under one hundred ten feet high used only for yarding with heavy equipment (over 7/8-inch mainline) shall have not less than six top guys each of which shall be substantially equal in strength to the strength of the mainline.

(iv) Spar trees used for yarding with light equipment (7/8-inch or smaller mainline) shall be guyed in such a manner that strains will be imposed on not less than two guylines. If less than five top guys are used, guylines shall be at least 1/4-inch larger than the mainline.

(v) More guylines shall be added if there is any doubt as to the stability of any spar tree, raised tree, tail trees and lift trees, or other equipment or rigging they support.

(w) Guylines shall alternately be passed around the wood spar in opposite directions to prevent twisting of the spar.

(x) Guylines shall be attached to the upper portion of the wood spar by means of shackles.

(y) A-frames shall be guyed by at least two quarter-guylines and one snap guyline or equivalent means to prevent A-frame from tipping back.

(5) Anchoring.

(a) Stump anchors used for fastening guylines and skylines shall be carefully chosen as to position, height and strength. When necessary, stump anchors shall be tied back in a manner that will distribute the load.

(b) Stump anchors shall be barked where attachments are to be made, or devices designed to accomplish the same purpose shall be used.

(c) Stump anchors shall be notched to a depth not greater than one and one-half times the diameter of the line to be attached.

(d) Deadman anchors may be used if properly installed. Guylines shall not be directly attached to deadman anchors. Suitable straps or equally effective means shall be used for this purpose.

(e) Rock bolts and other types of imbedded anchors may be used if properly designed and installed.

(f) Stumps, trees and imbedded type guyline anchors shall be regularly inspected while the operation is in progress. Insecure or hazardous anchors shall be immediately corrected.

(g) Workers shall not stand close to the stump, or in the bight of lines as the guyline or wraps are being tightened.

(6) Blocks.

(a) All blocks shall:

(i) Not be used for heavier strains or lines than those for which they are constructed;

(ii) Be fitted with line guards and shall be designed and used in a manner that prevents fouling, with the exception of special line blocks not designed with line guards;

(iii) Be kept in proper alignment when in use;

(iv) Have bearing and yoke pins of a material that will safely withstand the strains imposed and shall be securely fastened;

(v) Have sheaves of a size designed for the size of the wire rope used.

(b) Blocks with cracked or excessively worn sheaves shall not be used.

(e) Lead blocks used for yarding, swinging, loading and unloading used in wood spars shall:

(i) Be of the type and construction designed for this purpose;

(ii) Be bolted with not less than two bolts through the shells below the sheaves in a manner that will retain the sheave and line in case of bearing pin failure (this does not apply to haulback lead blocks); and

(iii) Mainline blocks shall have a sheave diameter of not less than twenty times the diameter of the mainline.

(d) Block bearing shall be kept well lubricated.

(c) All blocks must be of steel construction or of material of equal or greater strength and so hung that they will not strike or interfere with other blocks or rigging.

(f) All pins in blocks shall be properly secured by "Molle Hogans" or keys of the largest size the pin hole will accommodate. When blocks are hung in trees, threaded pins and nuts shall be used.

(g) Sufficient corner or tail blocks to distribute the stress on anchors and attachments shall be used on all logging systems.

(h) Blocks used to lead lines directly to yarding, loading or unloading machines other than passline or strawline blocks shall be hung by the following method: In both eyes or "D"s of straps; threading eye through eye is prohibited.

(i) Tail, side or corner blocks used in yarding shall be hung in both eyes of straps.

(7) Wire rope.

(a) Wire rope shall be of the same or better grade as originally recommended by the equipment manufacturer.

(b) Wire rope shall be removed from service when any of the following conditions exist:

(i) In running ropes, six randomly distributed broken wires in one lay or three broken wires in one strand in one lay;

(ii) Wear of one third the original diameter of outside individual wires. Kinking, crushing, bird-caging, or any other damage resulting in distortion of the rope structure;

(iii) Evidence of any heat damage from any cause;

(iv) Reductions from nominal diameter of more than 3/64 inch for diameters to and including 3/4 inch, 1/16 inch for diameters 7/8 inch to 1 1/8 inch, inclusive, 3/32 inch for diameters 1 1/4 inches to 1 1/2 inches inclusive;

(v) In standing ropes, more than two broken wires in one lay in sections beyond end connections or more than one broken wire at an end connection;

(vi) In standing ropes, when twelve and one half percent of the wires are broken within a distance of one wrap (lay); and

(vii) Corroded, damaged or improperly applied end connections.

(e) Wire rope shall be kept lubricated as conditions of use require.

(8) Splicing wire rope.

(a) Marlin spikes or needles in good condition and large enough for the size of the line being spliced, shall be used for splicing.

(b) When available, and practical to use, a patented wire cutter shall be used. If using a wire axe to cut cable, the hammer used to strike the axe shall be made of soft nonspalling type material. Eye and face protection shall be worn in accordance with WAC 296-54-511(2).

(c) Short splices, eye to eye splices, cat's-paws, knots, molles and rolled eyes are prohibited except for use in the moving of slack lines. Knots will be permitted for use on single drum tractors and grapple pick-up lines when properly tied.

(d) Wire rope 1/2 inch or less in diameter may be tucked two times provided the rope is used only as straw line.

(e) Splices other than eye splices in lang lay lines are prohibited. Eye splices in lang lay lines shall be tucked at least four times.

(f) Long splices shall be used for permanently joining "regular lay" running lines.

(g) When U bolt wire rope clips (elamps) are used to form eyes on high strength wire rope, an additional clip (elamp) for each grade of line above improved plow steel shall be used over and above the following table: (See Figure No. 2, following this section, for proper application of wire rope clips.)

Improved Plow Steel Diameter of Rope	Number of Clips Drop Forged	Required Other Material	Minimum Space Between Clips
3/8 to			
5/8 inch	3	4	3-3/4 inches
3/4 inch	4	5	4-1/2 inches
7/8 inch	4	5	5-1/4 inches
1 inch	5	6	6 inches
1-1/8 inch	6	6	6-3/4 inches
1-1/4 inch	6	7	7-1/2 inches
1-3/8 inch	7	7	8-1/4 inches
1-1/2 inch	7	8	9 inches

(h) All line eye splices shall be tucked at least three full tucks. D's and knobs are recommended for line ends.

(i) Two lines may be connected by a long splice, or by shackles or patent links of the next size larger than the line being used where practical. Double "Molle Hogans" may be used on drop lines only and single "Molle Hogans" may be used on strawline.

(j) Splicing of two lines together for loading line or pass line is prohibited.

(k) Safe margin of line must be used for making long splices. The following table shows comparative safe lengths as to size of cable in making long splices:

Rope Diameter	To Be Unraveled	Total Length
1/4"	8'	16'
3/8"	8'	16'

PERMANENT

Rope Diameter	To Be Unraveled	Total Length
1/2"	10'	20'
5/8"	13'	26'
3/4"	15'	30'
7/8"	18'	36'
+ "	20'	40'
+ 1/8"	23'	46'
+ 1/4"	25'	50'
+ 3/8"	28'	56'
+ 1/2"	30'	60'
+ 5/8"	33'	66'
+ 3/4"	35'	70'
+ 7/8"	38'	76'
2 "	40'	80'

(9) Miscellaneous requirements:

(a) All lines, straps, blocks, shackles, swivels, etc., shall be inspected frequently and shall be used only when found to be in good condition. Such items shall be of sufficient size and strength as to safely withstand the stress which can be imposed by the maximum pull of the power unit against such equipment or devices as rigged or used in that particular logging operation.

(b) When used or second-hand cables are purchased, they shall not be used for any purpose until inspection determines they will withstand the maximum imposed strain.

(c) Skyline shall be anchored by placing three full wraps around tail hold and staples or spikes shall be used to securely hold each wrap or choked and secured with a shackle or three wraps and at least three clamps securely tightened.

(d) When using haulback lines greater than 7/8 inch diameter on interlocking drum type yarders, additional precautions shall be taken to prevent the corner blocks or tail blocks from dislodging the anchors to which the blocks are secured.

(e) Where "dutchman" is used, either for yarding or on skyline, a block of heavy construction must be used. Regular tree shoe or jack may be used for "dutchman" on skyline. Cable must be fastened securely.

(f) Choker drops shall be connected to the butt rigging by knobs or shackles. The use of molles or cold shuts is prohibited in all components of the butt rigging. All butt rigging shall be designed to prevent loss of chokers and defective swivels shall not be used. Open hooks shall not be used to connect lines to the butt rigging.

(g) When heel tackle is fastened near machine, safety line must be placed in such manner that in case of breakage, lines shall not strike power unit and endanger operator.

(h) Only in case of necessity shall any metallic object be driven into a log. The metal must be removed immediately when splice or other work is completed. Stumps shall be used whenever possible for splicing.

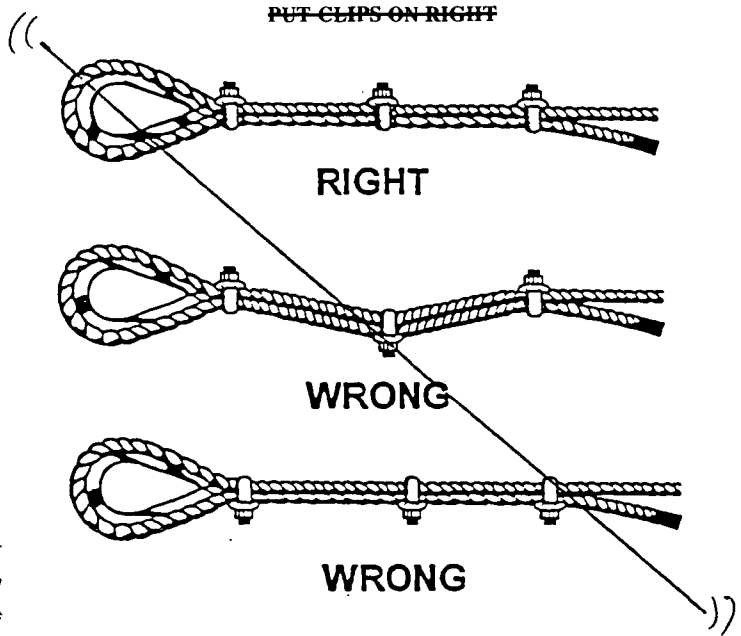


Figure No. 2

Clips should be spaced at least six rope diameters apart to get the maximum holding power and should always be attached with the base or saddle of the clip against the longer or "live" end of the rope. The "U" bolt goes over the dead end. This is the only right way. Do not reverse the clips or stagger them. Otherwise the "U" bolt will cut into the live rope when the load is applied. After the rope has been used and is under tension, the clips should again be tightened to take up any looseness caused by the tension reducing the rope diameter. Remember that even when properly applied, a clip fastening has only about eighty percent of the strength of the rope and far less than that when on wrong.)

(1) A flagger(s) must be assigned on roads where hazardous conditions are created from falling trees. Where there is no through traffic, such as on a dead end road, warning signs or barricades may be used instead of a flagger(s).

(2) Self-propelled mobile falling equipment used for falling trees must be designed, or have auxiliary equipment installed, that will cause the tree to fall in the intended direction.

(3) Until the machine operator has acknowledged that it is safe to do so, no employee shall approach a mechanical falling operation closer than a minimum of two tree lengths of the trees being fell.

(4) Mechanized falling must be conducted in a way that does not endanger people or equipment.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-545 ((~~Rigging Wood spar trees.~~) Climbing equipment and passline, ((1) Wood spar trees

PERMANENT

shall be of sound material of sufficient size and strength to withstand any stresses which may be imposed by any equipment used for that specific operation. The top of the tree shall extend not more than sixteen feet above the top guylines on spar trees over fifty feet in height. Spar trees less than fifty feet in height shall extend no more than eight feet above the top guylines. School marms used as spar trees shall be topped at the forks. Spar trees, except cedar, must be barked where guylines, straps, bull blocks and tree plates are placed.

(2) Spar trees must be topped and limbs must be cut off close so that running lines will not foul or saw on protruding knots.

(3) At least four tree plates shall be placed under top guylines on spar trees over fifty feet in height and at least three tree plates shall be used on spar trees less than fifty feet in height.

(4) Tree plates shall be equipped with lugs or other suitable means of holding them in place.

(5) When spar trees are raised, stumps used for snubbing shall be properly notched. Guylines shall be held by some mechanical means. Snubbing by hand is prohibited.

(6) All rub trees shall be limbed and topped.

(7) Guylines:

(a) Wood spar trees using a line greater than 7/8-inch and used as loading and yarding trees shall have at least six top guys and four buckle guys, providing a sail guy is used.

(b) Wood spar trees using a mainline greater than 7/8-inch and used only as yarding trees shall have at least six top guys and, at least three buckle guys shall be used.

(c) Wood spar trees used for loading only with crotch line, spreader bar or swinging boom shall have at least four top guys and, at least three buckle guys shall be used.

(d) Wood spar trees used for any skyline system of logging shall have additional guylines as are necessary to assure rigidity of tree at skyline jack, skidding block, reeving and transfer line blocks, and loading rigging.

(e) Wood spar trees used for transfer shall have at least five top guys and, at least three buckle guys shall be used.

(f) When high lead block is hung below buckle guys, at least three top guys of equal strength to the mainline shall be used to keep the top from swaying.

(g) When buckle guys are required, they shall be installed on the tree where they will provide the maximum effectiveness.

(8) Loose material such as bark, spikes, straps or chains not in use and slabs caused by bumping logs or chafing straps must be removed from the spar tree. Heavy bark shall be removed from trees used for a permanent installation.)) (1) Standard climbing equipment must be furnished by the employer. However, the climber may use personal equipment, if it meets the requirements of this section and is permitted by the employer.

(a) The climber may fasten climbing rope by passing it through "D" rings fastened to the belt and around his body before tying it to itself.

(b) An extra set of climbing equipment must be kept at the jobsite and another person with climbing experience must be present.

(2) The climber must be equipped with a climbing equipment assembly that includes:

(a) A safety belt with double "D" rings;

(b) Steel spurs long and sharp enough to hold in any tree in which they are used; and

(c) A climbing rope made of wire-core hemp, wire or chain construction.

(3) All climbing equipment must be maintained in good condition.

(4) Defective climbing equipment must be immediately removed from service.

(5) Going up a raised portable spar or tower without suitable equipment is prohibited.

(6) Only an employee directed by the climber may work directly under a tree. The climber must give warning before intentionally dropping any objects or when objects are accidentally dropped.

(7) Running lines must not be moved while the climber is working in the tree, except such "pulls" as climber directs and are necessary for the work.

(8) One experienced person must be assigned to transmit the climber's signals to the machine operator.

(a) This signal person must not otherwise be occupied while the climber is in the tree.

(b) The machine operator must not be distracted while the climber is using the passline.

(c) The designated signal person must be positioned clear of hazards from falling, flying, or thrown objects.

(9) The climber must be an experienced logger with proper knowledge of logging methods and the safety of rigging spar and tail trees.

(10) Noisy equipment such as power saws, tractors, and shovels must not be operated near where a climber is working when such noise will interfere with the climber's signals.

(11) Climbing and passline equipment must not be used for other purposes.

(12) Lineman hooks must not be used as spurs.

(13) Tools used by the climber, except the chain saw, must be safely secured to climber's belt when not in use.

(14) Using snaps on a climber's rope is prohibited unless a secondary safety device between the belt and snap is used.

(15) A climber's rope must encircle the tree before the climber leaves the ground, except when the climber is riding the passline.

(16) While the climber is working in the tree, persons must keep at sufficient distance from the tree to be clear of falling objects.

(17) When used, passline blocks must be kept in alignment and free from fouling.

(18) Loose equipment, rigging, or material must either be removed from the tree or securely fastened.

(19) Drums used for passlines must have enough flange depth to prevent the passline from running off the drum at any time.

(20) Passlines must:

(a) Be at least 5/16-inch and not over 1/2-inch in diameter;

(b) Not be subjected to sawing on other lines or rigging, and kept clear of all moving lines and rigging;

(c) Be one continuous length and in good condition with no splices, knots, molles, or eye-to-eye splices between the ends;



(d) Long enough to provide three wraps on the drum before the climber leaves the ground.

(21) Passline chains must be:

(a) At least 5/16-inch alloy or 3/8-inch high test chain and must not contain cold shuts or wire strands;

(b) Attached to the end of the passline with a screw-pin shackle, a slip-pin shackle with a nut and molle, or a ring large enough to prevent going through the pass block; and

(c) Fitted with links or rings to prevent workers from being pulled into the passline block.

(22) Pass blocks must:

(a) Be inspected before placing in each spar and the necessary replacements or repairs made before they are hung;

(b) Have the shells bolted under the sheaves;

(c) Have the bearing pin securely locked and nuts keyed, or the block positively secures the nut and pin;

(d) Be equipped with sheaves at least six inches in diameter; and

(e) Comply with WAC 296-54-54750.

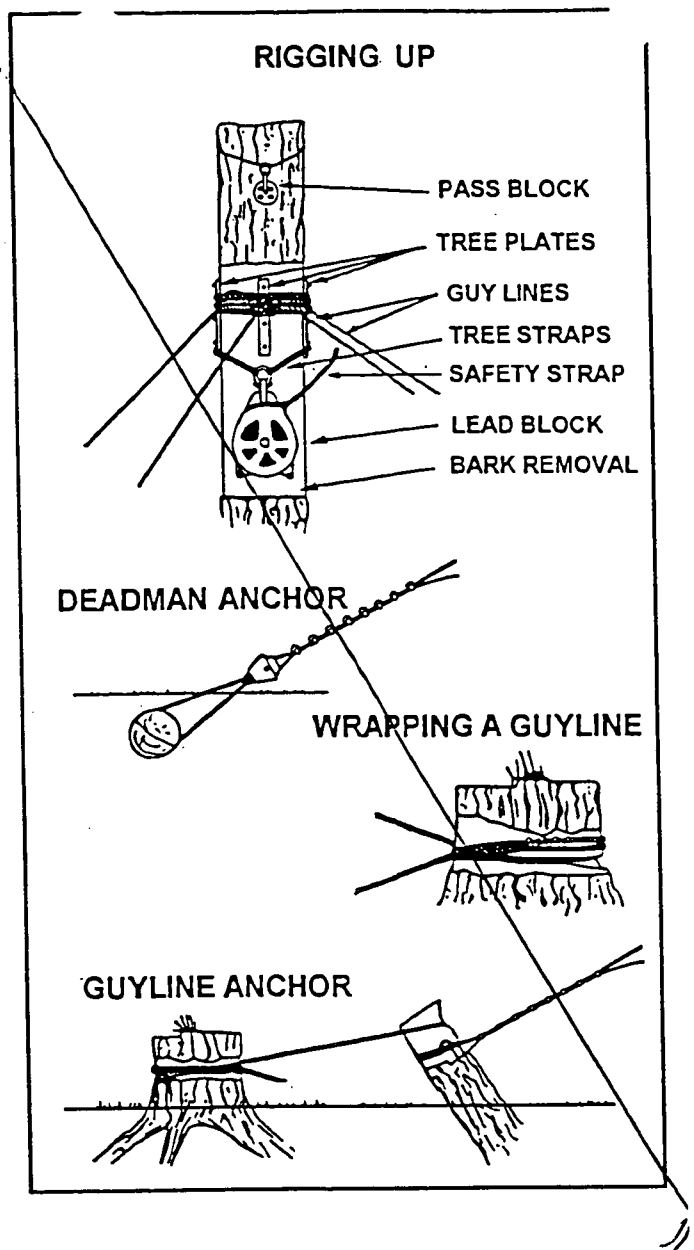
**AMENDATORY SECTION** (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-547 Rigging—((Tail tree)) General.**

((1)) No work shall continue on tail tree while the climber is working on the head tree or vice versa, if trees are connected by any line.

(2) Tail trees shall be adequately guyed to withstand any stress to which the tree may be subjected. Live (slackline) or standing skylines may be anchored to the base of standing trees only if no part of the tree will enter the work area (cutting unit) if pulled over. The guyline shall be anchored as low as possible to the base of the tree. If using a live (slackline) standing or running (Grabinski) skyline, the tail tree need not be topped provided the slackline or skyline passes through a jack or block on the tree before being anchored. At least two guylines shall be installed to support the tail tree and may be anchored to the base of standing trees if the above conditions are complied with. Attaching the end of the skyline or slackline to the base of the tail tree is prohibited.

Note: See Figure No. 3 for rigging illustrations.



(1) Rigging must be arranged and operated so that rigging and loads will not foul or saw against lines, straps, blocks, or other equipment or material.

(2) When not in use, rigging must be stored so that it does not present a hazard to employees.

(3) Tongs, grapples, logs and materials must not be swung or suspended over employees.

(4) All employees must be in the clear of running lines, standing skylines, moving rigging, or suspended loads until the rigging or loads have completely stopped.

(5) Riding on a turn of logs or rigging is prohibited, except on the passline. Holding on to moving rigging or chokers to be pulled uphill is prohibited.

**NEW SECTION**

**WAC 296-54-54710 Rigging—Inspection.** (1) An authorized, qualified person must thoroughly inspect all blocks, straps, guylines, butt rigging, and other rigging before they are used.

- (2) The inspections must include examining for:
  - (a) Damaged, cracked, or worn parts;
  - (b) Loose nuts and bolts;
  - (c) Need for lubrication; and
  - (d) The condition of straps and guylines.

(3) All necessary repairs or replacements for safe operation must be made before the rigging is used.

(4) All rigging elements must be large and strong enough to safely withstand the stress that can be imposed by the maximum pull of the power unit against the equipment or devices as rigged or used in that particular logging operation.

**NEW SECTION**

**WAC 296-54-54720 Rigging—Molles.** (1) Molles must not be used as a temporary connection between two spliced eyes of a load-supporting running line. Double molles may be used on droplines only and single molles may be used on strawline.

(2) Molles must be as large as the pinhole will accommodate and have the loose ends rolled in.

**NEW SECTION**

**WAC 296-54-54730 Rigging—Shackles.** (1) Shackles used to hang blocks, jacks, or rigging on spars, must have the pins secured with a nut and cotter key or a nut and molle.

(2) Flush pin, straight-sided shackles must be used for mainline, slackline and skyline extensions.

(3) Shackles with screw pins, knockout or slip pins may be used to anchor skylines, slackline, guyline, and/or guylines extensions.

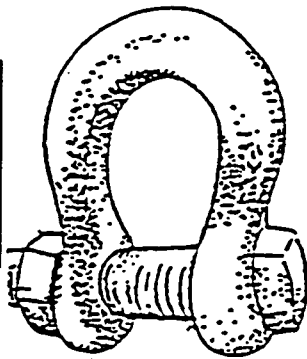
(4) All other shackles must be screw pin type or have the pin secured with a nut and cotter key or a nut and molle, except as specified elsewhere for specific purposes.

(5) The opening between the jaws of shackles used to hang blocks, jacks, and rigging and to join or attach lines, must be a maximum of one inch greater than the size of the rope, swivel, or shackle to which it is attached.

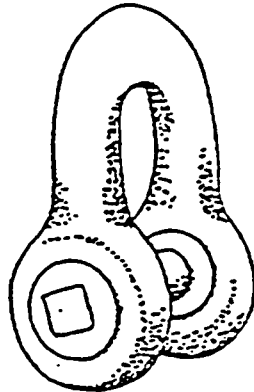
(6) All shackles must be one size larger than the lines they connect and made of forged steel or material of equivalent strength.

(7) Shackles used to join lines must be hung with the pin and "U" part of the shackle through the eyes of the lines.

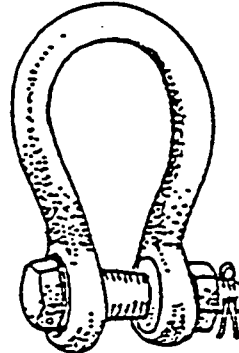
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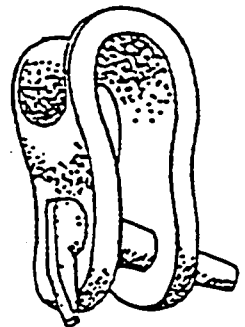
Medium Bell  
With Safety Pin



Flush Pin  
Straight Side



Wide Bell-shaped Hanging Type  
With Safety Pin



Guyline Sleeve  
With Knock-out Pin

Figure 2-2: Shackles

**NEW SECTION**

**WAC 296-54-54740 Rigging—Straps.** Straps must be used according to the following requirements:

(1) Straps or chokers used to hang corner or tail blocks and straps used to anchor skylines/slacklines must be the size required by Table 1: Strap/Choker Size in Inches.

Running Line Size in Inches	Block or Skyline / Slackline Hung in Both Eyes	Block Hung in Single Eye
5/16	1/4	1/2
3/8	3/8	9/16
7/16	7/16	5/8
1/2	1/2	3/4
9/16	9/16	7/8

Table 1: Strap/Choker Size in Inches

5/8	5/8	1
3/4	3/4	1 1/8
7/8	7/8	1 1/4
1	1	1 3/8
1 1/8	1	
1 1/4	1	
1 3/8	1	
1 1/2	1 1/8	
1 5/8	1 1/4	
1 3/4	1 1/4	
1 7/8	1 3/8	
2	1 3/8	

Note: Both strap ends must be under equal tension.

(2) When a single choker or single part strap is used to support lift blocks, jacks and tree shoes they must be adequately sized to support the applied loads.

(3) When a two part strap or two chokers are used to hang a block, jack, tree shoe, or rigging, both eyes or ends must be under equal tension.

(4) Where two equal length chokers are used instead of one choker to gain extra breaking strength, they must be arranged in a swede connection.

(5) Straps or chokers used to hang or support blocks, jacks, tree shoes, or rigging must be replaced when there is evidence of damaged or broken wires. They must:

- (a) Be made of new wire rope; or
- (b) Meet the pull test strength of new wire rope.

(6) Threading wire rope straps eye through eye is prohibited.

(7) Synthetic straps must be used as recommended by the manufacturer and only at a flat or downward angle unless wrapped one full turn around the tree support to prevent the strap from riding up on the support.

(8) Synthetic straps must be removed from service when wear reaches the limits prescribed by the manufacturer or when deterioration is evident.

**NEW SECTION**

**WAC 296-54-54750 Rigging—Blocks.** (1) Load-bearing blocks must:

- (a) Not be used for heavier strains or lines than those for which they are constructed;
- (b) Be fitted with line guards;
- (c) Be designed and used to prevent fouling;
- (d) Be kept in proper alignment when in use;
- (e) Be equipped with bearing and yoke pins that will safely withstand the strains imposed, and are securely fastened; and
- (f) Be equipped with sheaves designed for the size of the wire rope used.

EXCEPTION: Subsections (b), and (f) do not apply to rig-up ("Tommy Moore") blocks.

(2) Blocks with cracked or excessively worn sheaves or shells must not be used.

(3) Block bearings must be kept well lubricated.

(4) All pins in blocks must be properly secured by "Molle Hogans" or keys of the largest size the pin hole will accommodate. When blocks are hung in spars, pins must be secured with a nut and cotter pin or nut and molle.

(5) Lead blocks used for yarding, swinging, loading and unloading used in wood spars shall:

(a) Be of the type and construction designed for this purpose;

(b) Be bolted with not less than two bolts through the shells below the sheaves in a manner that will retain the sheave and line in case of bearing pin failure (this does not apply to haulback lead blocks); and

(c) Mainline blocks shall have a sheave diameter of not less than twenty times the diameter of the mainline.

**NEW SECTION**

**WAC 296-54-54760 Rigging—Hanging blocks.** (1)

All logging systems must use enough corner or tail blocks to distribute the stress on anchors and attachments.

(2) Blocks (other than passline or haywire) must be hung by one of the following methods:

(a) Hanging the block in both eyes or Ds of the straps (threaded straps are prohibited); or

(b) If chokers are used, the ferrule must be properly seated in the socket of the bell or hook to prevent the ferrule from coming unbuttoned. The chokers must be the size required in WAC 296-54-54740(1); or

(c) If single part straps are used, the straps must be secured with a shackle and be the size required in WAC 296-54-54740(1).

(3) The yoke pin of haulback blocks shall be inserted with the head facing the direction from which the rigging approaches.

(4) When there is danger of tail block straps slipping up or off the stump or tree, the stump or tree must be adequately notched or the line properly wrapped and secured. When the tail tree or stump is not secure, it must be tied back.

**AMENDATORY SECTION** (Amending Order 80-15, filed 8/20/80)

**WAC 296-54-549** (~~Lines, straps and guyline attachments—Steel spars.~~) **Selecting spar, tail and intermediate support trees.** ((1) When in use, steel tower guyline safety straps shall have a minimum amount of slack.

(2) A safety strap shall be installed on steel towers at the bight of the guylines to prevent the guylines from falling in the case of failure of guyline attachments, guyline lug rings or collar plates, where such exist. Such devices shall have a breaking strength at least equivalent to that of the guylines.

(3) The use of cable clips or clamps for joining the ends of steel tower guylines safety straps is prohibited, unless used to secure end of rolled eye.)) (1) Spar, tail and intermediate support trees must be examined carefully for defects before being selected. They must be sound, straight, green and of sufficient diameter to withstand the strains to be imposed.

PERMANENT

(2) Trees having defects that impair their strength must not be used for spar, tail or intermediate support trees. Raised trees must be identified and marked as such.

(3) Douglas fir or spruce must be used as spar trees when available. If other species must be used, additional guylines, tree plates or other precautions must be taken to ensure that the tree will withstand the strains to be imposed.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-551 ((~~Yarding, loading, skidding and chipping machines—General requirements.~~) Raising and lowering portable spars or towers. ((1) The employer shall assure that each machine, including any machine provided by an employee, is maintained in serviceable condition and the following:**

(a) The employer shall assure that each machine, including any machine provided by an employee, is inspected before initial use during each workshift. Defects or damage shall be repaired or the unserviceable machine shall be replaced before work is commenced.

(b) The employer shall assure that operating and maintenance instructions are available on the machine or in the area where the machine is being operated. Each machine operator and maintenance employee shall comply with the operating and maintenance instructions.

(c) Each machine shall be operated only from the operator's station or as otherwise recommended by the manufacturer.

(d) No employee shall ride on any load.

(2) ~~Overhead protection and other barriers shall be installed to protect the operator from lines, limbs and other moving materials on or over all yarding, loading or skidding machines. The overhead cab covering shall be of solid material and shall extend over the entire canopy.~~

((~~Exception:~~

Tower or spar type cable yarders may be equipped with a "sunroof" viewport in the solid material cab cover to enable the operator to see the top of the spar while seated in the normal operating position. When a viewport is provided it shall be constructed to sustain the same structural loading factors as the solid material cover or the viewport shall also be covered by standard cab opening guards.

(3) ~~When using a yarder, loader or skidding machine, the location of the machine or position of the yarder shall be such that the operator will not be endangered by incoming logs or debris.~~

(4) ~~Logging machines and their components shall be securely anchored to their bases.~~

(5) ~~A safe and adequate means of access and egress to all parts of logging machinery where persons must go shall be provided and maintained in a safe and uncluttered condition. Machine access systems, meeting the specifications of the Society of Automotive Engineers, SAE J185, June 1988, "Recommended Practice for Access Systems for Off Road Machines," shall be provided for each machine where the operator or any other employee must climb onto the machine to enter the cab or to perform maintenance. Walking and~~

~~working surfaces of each machine and machine work station shall have a slip resistant surface to assure safe footing.~~

(6) ~~Any logging equipment having a single cab entrance door, shall be equipped with an alternate means of escape from the cab should the door be blocked in the event of vehicle rollover or fire. Door latches shall be operable from both sides.~~

(7) ~~Logging machines shall be kept free of flammable waste materials and any materials which might contribute to slipping, tripping or falling.~~

(8) ~~Logging machine engines shall be stopped during inspection or repairing, except where operation is required for adjustment.~~

(9) ~~Grab rails shall be provided and maintained in good repair on all walkways of stationary units elevated more than four feet.~~

(10) ~~Standard safeguards shall be provided at every place on a machine where persons may be exposed to contact with revolving parts or pinchpoints during normal operations.~~

(11) ~~To protect workers from exposure to the hazardous pinchpoint area between the rotating superstructure and the nonrotating undercarriage of any logging machine, signs shall be conspicuously posted on all sides of that type machine warning workers: "DANGER—STAY CLEAR." This requirement shall not apply when:~~

(a) ~~The distance from the highest point of the undercarriage to the lowest point of the rotating superstructure is greater than eighteen inches. This applies only to that portion of the rotating superstructure that swings directly over the undercarriage;~~

(b) ~~The distance from the ground to the lowest point of the rotating superstructure is greater than five feet six inches. This applies only to that portion of the rotating superstructure that swings directly over the undercarriage; or~~

(c) ~~On crawler type track mounted logging machines only, the rotating superstructure is positioned at a right angle to the tracks, and the distance from the side of the cab to the extreme end of the track is four feet or less. This exemption shall apply to side barricades only; barricades between the tracks at both ends of any crawler type logging machine are required regardless of the right angle dimension.~~

(12) ~~Items of personal property, tools or other miscellaneous materials shall not be stored on or near any logging machine if retrieval of such items would expose a worker to the hazardous pinchpoint referred to in subsection (11) of this section.~~

(13) ~~Workers shall approach the hazardous pinchpoint area referenced in subsection (11) of this section, only after informing the operator of their intent and receiving acknowledgment that the operator understands their intention. All such machines shall be stopped while any worker is in the hazardous pinchpoint area.~~

(14) ~~A minimum distance of thirty six inch clearance shall be maintained between the counterweight of a loading machine and trees, logs, banks, trucks, etc., while the machine is in operation. If this clearance cannot be maintained, suitable barricades with warning signs attached, similar to a standard guardrail, shall be installed to isolate the hazardous area. "DANGER—36 inch clearance" shall be marked~~

in contrasting colors on sides and face of counterweight on shovels, loaders and other swing-type logging equipment.

~~(15) Guarding:~~

~~(a) Each machine shall be equipped with guarding to protect employees from exposed moving elements, such as but not limited to, shafts, pulleys, belts on conveyors, and gears, in accordance with the requirements of this standard and chapter 296-24 WAC, Part C, Machinery and machine guarding.~~

~~(b) Each machine used for debarking, limbing and chipping shall be equipped with guarding to protect employees from flying wood chunks, logs, chips, bark, limbs and other material in accordance with the requirements of chapter 296-24 WAC, Part C, Machinery and machine guarding.~~

~~(16) Stationary logging machines and their components shall be securely anchored or otherwise stabilized to prevent movement while yarding or skidding.~~

~~(17) Ends of drum lines shall be securely fastened to the drum and at least three wraps shall be maintained on the drum at all times. (This rule does not apply to tractor winch lines.)~~

~~(18) Such units shall not be tied to any part of the towing unit, when they are being moved on truck and trailer units.~~

~~(19) Logs shall not be moved, swung or held over any persons:~~

~~(20) Brow logs in the loading or unloading area shall be blocked or secured to prevent movement. Log decks shall be maintained in a safe condition and shall not present a hazard of logs rolling or sliding on workers.~~

~~(21) Brakes shall be set and brake locking devices engaged on logging machines when the operator leaves his normal operating position.~~

~~(22) Guyline drum controls and outrigger controls shall be separated, color coded or marked in a manner that will prevent engaging of the wrong control.~~

~~(23) Exhaust systems:~~

~~(a) Engines not equipped with turbochargers shall comply with the department of natural resources chapter 332-24 WAC requirements for spark emitting equipment; and~~

~~(b) Each machine muffler provided by the manufacturer, or their equivalent, shall be in place at all times the machine is in operation; and~~

~~(c) Exhaust pipes shall be located or insulated to protect workers from accidental contact with the pipes or muffler and shall direct exhaust gases away from the operator and other persons:~~

~~(24) Glass on logging machines shall be safety glass or equivalent and shall be free of deposits of oil, mud, or defects that could endanger the operator or other persons. When transparent material is used to enclose the upper portion of the cab, it shall be made of safety glass or other material that the employer demonstrates provides equivalent protection and visibility.~~

~~(25) Broken or defective glass shall be removed and replaced:~~

~~(26) Where safety glass or equivalent, does not provide adequate operator protection from flying chokers, chunks, saplings, limbs, etc., an additional metal screen and/or barrier shall be provided over the safety glass. The operator's vision shall not be impaired. Barriers shall consist of 1/4 inch diameter woven wire material with maximum two inch openings;~~

~~3/4 inch diameter steel rod with eight inch maximum openings in any direction or barriers so designed and constructed to provide equivalent operator protection. Such barriers shall be installed no closer than four inches to the glass to enable keeping the glass clean.~~

~~(27) Except for hydraulic drums, brakes shall be installed on all logging machines and maintained in effective working condition. Brake levers shall be provided with a ratchet or other effective means for securely holding drums. Brakes shall be tested prior to putting the machine in operation. If defective, they shall be repaired immediately.~~

~~(28) A stable base shall be provided under outriggers or leveling pads and a means shall be provided to hold outriggers in both the retracted and extended position.~~

~~(29) Abrasive contact with hydraulic hose, tubing or fittings shall be eliminated before further use and defective hydraulic hoses, lines and fittings shall be replaced.~~

~~(30) When moving logging machines, the driver or operator shall have a clear and unobstructed view of the direction of travel. When this is not possible, a signalperson with a clear and unobstructed view of the direction of travel shall be designated and used to direct movement of the machine.~~

~~(31) Where a signalperson is used, the equipment operator shall move the equipment only on signal from the designated signalperson and only when the signal is distinct and clearly understood.~~

~~(32) When moving power units, persons other than the operator and the person in charge shall not be permitted to ride thereon.~~

~~(33) All obstructions which may reach the operator while moving machines, shall be removed.~~

~~(34) Only shackles with threaded pins shall be used for connecting moving rigging.~~

~~(35) Anchors used for moving power units shall be carefully chosen and must be stable.~~

~~(36) When snubbing a machine down a steep slope, use the mainline for snubbing and pull with the haulback when ever possible.~~

~~(37) Self-powered mobile logging machines of the type where towers or spars can be raised, shall not travel on steep road grades unless they are securely snubbed or towed.~~

~~(38) When moving, all persons working on the landing shall stay in the clear of the machine and shall inform the operator of their intention to approach or be near the machine.~~

~~(39) Service brakes shall be provided on crawler crane-type logging machines that will bring the machine to a complete stop from normal travel speeds.~~

~~(40) A traction lock or brake or an equivalent locking and braking system shall be provided on crawler crane-type machines that is capable of holding the machine stationary under normal working conditions, and on any grade the machine is capable of negotiating.~~

~~(41) No modifications or additions which affect the capacity or safe operation of the equipment shall be made by the employer without written approval of the manufacturer or a qualified engineer. If such modifications or changes are made, the capacity, operation and maintenance instruction plates, tags, or decals, shall be changed accordingly. In no~~

ease shall the original safety factor of the equipment be reduced.

(42) Equipment shall be classed and used according to the manufacturer's rating. Where low gear ratios or other devices are installed to increase the line pull in accordance with subsection (41) of this section, the size of the rigging shall be increased accordingly so that it will safely withstand the increased strains.

(43) Every tractor, skidder, front-end loader, scraper, grader and dozer shall be equipped with a roll-over protective structure (R.O.P.S.). Such structures shall be installed, tested and maintained in accordance with:

(a) WAC 296-155-950 through 296-155-965 of the safety standards for construction, if manufactured prior to October 21, 1979.

(b) The society of automotive engineers SAE 1040a-1975, "performance criteria for roll-over protective structures (ROPS) for earthmoving, construction, logging and industrial vehicles," if manufactured after the effective date of this chapter.

(44) The ROPS shall be of sufficient height and width so that it will not impair the movements of the operator or prevent his immediate escape from the vehicle in emergencies and shall allow as much visibility as possible. Clearance above the deck and the ROPS of the vehicle at points of egress shall not be less than fifty-two inches (1.3 meters).

(45) Certified roll-over protective systems shall be identified by a metal tag permanently attached to the ROPS in a position where it may be easily read from the ground. The tag shall be permanently and clearly stamped, etched or embossed indicating the name and address of the certifying manufacturer or registered professional engineer, the ROPS model number (if any) and the vehicle make, model or serial number the ROPS is designed to fit.

(46) Roll-over protective structure systems shall be maintained in a manner that will preserve their original strength. Welding shall be performed by qualified welders only. (A qualified welder is defined under "welder qualification" in American Welding Society A.W.S. A3.0-69.)

(47) Every tractor, skidder, front-end loader, log stacker, forklift truck, scraper, grader and dozer shall be equipped with a FOPS. Such structures shall be installed, tested and maintained in accordance with:

(a) The society of automotive engineers SAE J231-1971, "minimum performance criteria for falling object protective structures (F.O.P.S.) prior to February 9, 1995."

(b) Society of automotive engineers SAE J231, January 1981, "minimum performance criteria for falling object protective structures (FOPS) for each tractor, skidder, log stacker, log loader and mechanical felling device, such as tree shears or feller buncher, placed into initial service after February 9, 1995."

(c) The employer shall replace FOPS which have been removed from any machine.

(48) Vehicles equipped with ROPS or FOPS as required in subsections (43) and (47) of this section, shall comply with the society of automotive engineers SAE J397a-1972, "deflection limiting volume for laboratory evaluation of roll-over protective structures (ROPS) and falling object protective structures (FOPS) of construction and industrial vehi-

cles." Vehicles placed into initial service after February 9, 1995, shall meet the requirements of SAE J397-1988.

(49) The opening in the rear of the ROPS on the crawler or rubber-tired tractors (skidders) shall be covered with 1/4-inch diameter woven wire having not less than 1-1/2 inches or more than 2-inch mesh, or material which will afford equivalent protection for the operator. The covering shall be affixed to the structural members so that ample clearance is provided between the screen and the back of the operator. Structural members shall be free from projections which would tend to puncture or tear flesh or clothing. Suitable safeguards or barricades shall be installed, in addition to the screen, to protect the operator when there is a possibility of being struck by any material that could enter from the rear.

(50) Crawler and rubber-tired tractors (skidders) working in areas where limbs or brush may endanger the operator shall be guarded. Shear or deflector guards shall be installed on each side of the vehicle at an angle leading forward and down from the top front edge of the canopy of the vehicle, which will tend to slide the brush or limbs up and over the top of the canopy. Open mesh material with openings of a size that will reject the entrance of an object larger than 1-3/4 inches in diameter, shall be extended forward as far as possible from the rear corners of the cab sides to give the maximum protection against obstacles, branches, etc. entering the cab area. Deflectors shall also be installed ahead of the operator to deflect whipping saplings and branches. These shall be located so as not to impede ingress or egress from the compartment area. The floor and lower portion of the cab shall be completely enclosed with solid material, except at entrances, to prevent the operator from being injured by obstacles which otherwise could enter the cab compartment.

(51) Enclosures for agricultural and industrial tractors manufactured after September 1, 1972, shall be constructed, designed and installed as detailed in the society of automotive engineers technical report J168. Each machine manufactured after August 1, 1996, shall have a cab that is fully enclosed with mesh material with openings no greater than 2 inches (5.08 cm) at its lease dimension. The cab may be enclosed with other material(s) where the employer demonstrates such material(s) provides equivalent protection and visibility. Exception: Equivalent visibility is not required for the lower portion of the cab where there are control panels or similar obstructions in the cab, or where visibility is not necessary for safe operation of the machine.

(52) All bidirectional machines, such as rollers, compactors, front-end loaders, log stackers, log loaders, bulldozers, shovels, and similar equipment, shall be equipped with a horn distinguishable from the surrounding noise level, which shall be operated as needed when the machine is moving in either direction. The horn shall be maintained in an operative condition.

(53) No employer shall permit earthmoving, compacting, or yarding equipment, which has an obstructed view to the rear, to be used in reverse gear unless the equipment has in operation a reverse signal alarm distinguishable from the surrounding noise level or an employee signals that it is safe to do so.

(54) Overhead guards. Each forklift shall be equipped with an overhead guard meeting the requirements of the

~~American Society of Mechanical Engineers, ASME B56.6-1992 (with addenda), "Safety Standard for Rough Terrain Forklift Trucks."~~

~~(55) Chipping (in woods locations):~~

~~(a) Chipper access covers or doors shall not be opened until the drum or disc is at a complete stop:~~

~~(b) Infeed and discharge ports shall be guarded to prevent contact with the disc, knives, or blower blades:~~

~~(c) The chipper shall be shut down and locked out in accordance with the requirements of chapter 296-24 WAC, Part A 4 when an employee performs any servicing or maintenance:~~

~~(d) Detached trailer chippers shall be chocked during usage on any slope where rolling or sliding of the chipper is reasonably foreseeable:)) (1) A qualified, authorized person must direct each raising and lowering of a portable spar or tower.~~

~~(2) All employees not engaged in the raising or lowering of portable spars must stay in the clear during these operations.~~

~~(3) Portable spars must be leveled to provide proper line spooling and avoid excessive stress on component parts.~~

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-553 ((Yarding, loading and skidding machines—Mobile towers and boom type yarding and loading machines:)) Metal spars.** ((1) Portable (mobile) tower specification plate. A specification plate shall be permanently attached to the base of each portable (mobile) tower so it can be easily read by a person standing on the ground or on the base platform. It shall contain the following information:

(a) Name and address of manufacturer and model number;

(b) The maximum diameter of the mainline or skyline for which the unit is designed and size of haulback and mainline to be used together if drums are interlocking or automatic tensioning type;

(c) The number and size of guylines required to stabilize the unit;

(d) The maximum length and capacity of a loading boom or similar equipment which may be attached if the structure is engineered for such;

(e) If the unit is designed for use on any skyline system of logging; and

(f) Maximum degree of inclination from vertical at which the spar (tower) may be used.

(2) The critical parts of portable spars (towers) shall be inspected by a qualified person at reasonable intervals while in service and each time the spar (tower) is lowered. If indication of failure or weakness is noted or suspected, the part shall be inspected by an approved method and found to be safe, or it shall be repaired or replaced before the operation is allowed to proceed.

(3) Blocks and fair leads shall be so located that there will be no chafing or sawing of any line or part of the structure.

(4) Guyline attachments:

(a) Power guylines used for stabilizing any unit may be choked around an adequately notched stump if using a shackle or approved choker attachment. Three full wraps or more must be placed around an adequately notched stump to secure the guyline if clamps are used. Guyline extensions shall be properly shackled to the guylines.

(b) When using a deadman anchor to support a guyline, the connection shall be made by properly shackling both eyes of the anchor strap to the guyline.

(c) If guylines on metal spars or towers are not power guylines, they shall be secured to stumps or anchorages in the same manner as guylines on wood spar trees.

(5) Power driven devices shall be securely anchored when used to tighten guylines. Holding of such devices manually is prohibited.

(6) Machine stabilization:

(a) Machines or equipment shall be stabilized by their design or the attachment of guylines or other devices which will prevent the machine from overturning. Machine operators shall be advised of the stability limitations of the equipment.

(b) If stabilization of a machine is dependent upon the use of hydraulic outriggers, a pilot operated hydraulic check valve or other locking device shall be installed to prohibit the outrigger from retracting in case a hydraulic line breaks, except when proper blocking is provided.

(7) A qualified person shall direct each raising or lowering of a portable spar or tower.

(8) All persons not engaged in the actual raising or lowering of portable spars or towers shall stay in the clear during such operations:

(9) Guylines required in rigging spars or towers shall be evenly spooled to prevent fouling.

(10) Portable spars or towers shall be leveled to provide even line spooling and avoid excessive stress on component parts:

(11) The portable spar or tower shall be lowered or supported so the stability of the machine is not impaired during movement of the portable spar or tower.

(12) Guylines of portable spars or towers shall not be anchored to standing trees if the unit is used for yarding as a head tree.

(13) Timbers used for masts or booms shall be straight-grained, solid, and capable of withstanding the working load.

(14) Boom points of timber booms shall be equipped with metal straps, plates, or other devices as needed to properly secure eyebolts and fittings used to support lines, blocks, or other rigging.

(15) All mobile vehicles on which yarding equipment, towers, spars, masts or booms are installed, shall be maintained in a safe operating condition.

(16) A frames shall be secured against displacement and the tops shall be securely bolted or lashed to prevent displacement.

(17) When any portable type tower, A frame or spar is used, the base shall be securely and solidly supported.

(18) All loading, unloading and skidding machines shall be equipped with a horn or whistle which is audible above the surrounding noise level. Such horn or whistle shall be main-

~~tained in an operative condition-)~~ (1) Each portable metal spar must have an identification plate permanently attached to its base or on the yarder in a position that can be easily read by a person standing on the ground or on the base platform.

EXCEPTION: A hydraulic loader with yarding drums is not required to have an identification plate if the drums are installed and used according to the manufacturer's recommendations.

(2) The identification plate must have the following information:

(a) Name and address of manufacturer;

(b) Model number; and

(c) The maximum and minimum angle at which the metal spar is designed to operate.

(3) The identification plate on metal spars manufactured after July 1, 1980, must also have the following information:

(a) The maximum breaking strength and/or size of the mainline for which the spar is designed;

(b) The maximum breaking strength and/or size of the haulback line for which the spar is designed;

(c) The number, breaking strength, and size of guylines or any other lines required; and

(d) For a spar designed for a skyline, slackline, or modified slackline system, the maximum breaking strength and size of the skyline, mainline, and haulback line that can be used.

(4) All portable metal spars must be operated within the manufacturer's capacity:

(a) As specified on the identification plate; or

(b) As modified by the manufacturer; or

(c) As designed and specified by a registered engineer;

or

(d) A tension limiting device must be installed on the yarder. The device must be:

(i) Designed to automatically slack the skyline or mainline to within the manufacturer's line strength specifications;

(ii) Tamper proof;

(iii) Inspected; and

(iv) Maintained in good operating condition; or

(e) A line fuse installed in the skyline or mainline. Line fused systems must have a design breaking strength equal to or less than the maximum line rating of the spar as listed on its identification plate.

Note: Item (d) and (e) list options to follow when using wire rope which exceeds the manufacturer's line strength specifications.

(5) Equipment used for yarding, which is specifically designed to be self-stabilizing during operation, may be used without guyline(s) provided the equipment is used with guylines when required by the manufacturer.

(6) Portable spars or towers and their parts must be inspected by a qualified person whenever:

(a) The portable spar or tower is lowered;

(b) Its safe condition is in doubt; or

(c) When damage from over-stress or any other source is noted or suspected. Before being used again, the part in question must be inspected by a suitable method and:

(i) Found safe;

(ii) Repaired by a qualified person; or

(iii) Replaced.

(7) Any structural modifications or additions that affect the capacity or safe operation of metal spars must be made under the direction of the manufacturer or a registered professional engineer. If such modifications or additions are made, the identification plate required in this section must reflect such changes.

(8) When moving metal spar logging machines, the spar must be lowered.

EXCEPTION: The spar may be raised when necessary for mobility if it is adequately supported to ensure the stability of the machine during movement.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

WAC 296-54-555 ((~~Yarding—General requirements-)~~) ~~Metal spar guyline safety straps.~~ ((~~1~~) ~~Workers shall be alert and be positioned in the clear where they will not be exposed to the hazards of moving logs, saplings, root wads, chunks, rigging, or any other material which might be put in motion by the rigging or turn, before the "go ahead" signal is given. They shall remain in the clear at all times while the rigging is moving.~~

(2) No person shall be near rigging which is stopped at a hangup, until the rigging has been slacked to reduce the hazard.

(3) No person shall stand or remain within the bight of any running line, nor in a position where he could be struck by a line were it to break or come loose.

(4) Whenever possible, chokers shall be set from the uphill side of a log. Persons shall not be on the lower side of a log which appears to be unstable or likely to roll.

(5) Wire rope used for chokers shall not exceed seventy-five percent of the breaking strength of the mainline.

(6) Chokers shall be placed near the end of the log/tree whenever possible.

Exception: A longer butt attachment point may be used when abnormally long logs or tree length logs are being yarded and the long butt is necessary to safely land the logs/trees on the available landing space.

(7) When pulling lines, do not stand close to fair leads or blocks.

(8) Lines shall not be guided on drums with hands or feet. The use of a bar or equivalent means is recommended.

(9) Yarding with more than one unit on any one head spar is prohibited.

(10) The angle between the power unit, the high lead block, and the mainline road shall not exceed a square lead on rigged spars. When using portable spars or towers, the location of the machine or position of the operator shall be such that the operator shall not be endangered by incoming logs.

(11) When there is danger of tail block straps slipping up or off the stump or tree, the stump or tree shall be adequately notched or the line properly wrapped and secured. When the tail tree or stump is not secure, it shall be tied back.

(12) When yarding is being done during the hours of darkness, the area shall be provided with illumination which will allow persons to safely perform their duties. The source of illumination shall be located and directed creating a minimum of shadows and glare. If using a portable tail hold,



lights shall be directed on the equipment to allow the person to visually ascertain that the tail hold equipment remains stabilized.

(13) No person shall be required or allowed to ride on a turn of logs or rigging excepting the passline. The practice of holding on to moving rigging or chokers to assist a person by being pulled uphill shall be prohibited.

(14) Wire rope shall be wound evenly on the drum and not be allowed to lap one layer on another in an irregular manner. Sheaves shall be smooth and free from defects that could cause rope damage.

(15) Chaser shall be sure that turns are safely landed before approaching to remove the chokers.

(16) Signaling machine operator at landings by throwing bark, chips or other material in the air is prohibited. Whistle or hand signals shall be used at all times.

(17) Logs shall not be landed while loaders or chasers are working in the chutes. Logs shall not be removed from yarder tree by the loader or tractors while the chaser is unhooking a turn from the yarder.

(18) Landings shall be as level as possible and of sufficient size to safely accommodate the majority of type turns to be yarded. At least two thirds of the log shall rest on the ground or other substantial material when landed. Logs shall be set on the ground or deck and not dropped when being landed. Long sticks shall be safely removed before additional logs are landed.

(19) Chokers shall not be used on a grapple system when the yarder operator cannot clearly see the persons setting the choker, unless conventional whistle signals are used.

(20) Landings shall be free of root wads, limbs, tops, etc., that constitute a safety hazard.

(21) When shorter logs are yarded in the same turn with long sticks, the shorter logs shall be landed and chokers released before the long stick choker is released.

Note: See Figures No. 4-A and 4-B for Standard Hand Signals for High Lead Logging.

(22) Each yarded tree/log shall be placed in a location that does not create a hazard for an employee and an orderly manner so that the trees/logs are stable before bucking or limbing is commenced.

PERMANENT

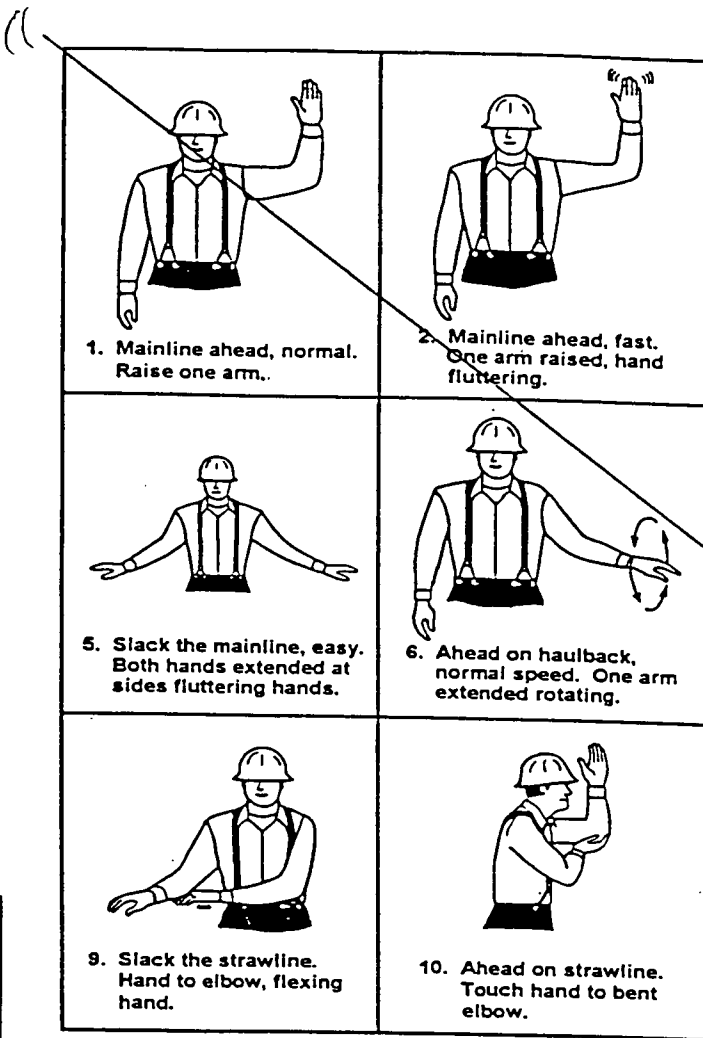


Figure No. 4-A

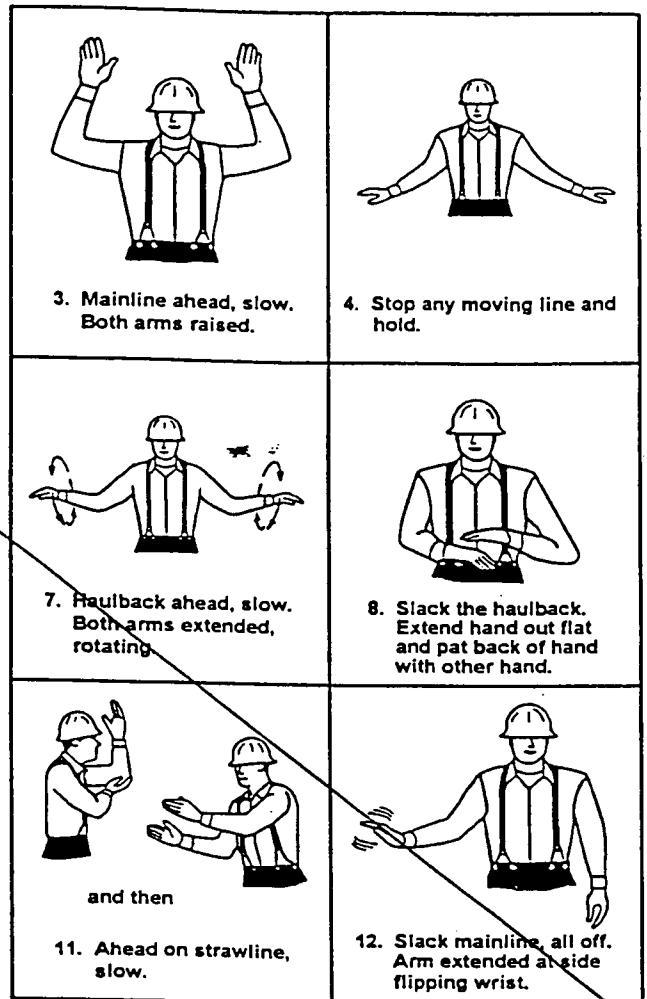


Figure No. 4-B

PERMANENT

(1) A metal spar guyline safety strap or equivalent device must be installed at the bight of the guylines to prevent guylines from falling vertically more than five feet in case of structural or mechanical failure of the guyline attachment.

(2) The safety strap or equivalent devices must be equal to the strength of one guyline being used.

(3) Using cable clips or clamps to join the ends of portable spar or tower guyline safety straps is prohibited, unless used to secure the end of a farmer's eye.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-557** (~~Yarding—Tractors, skidders and rough terrain log loaders (to include feller bunchers and tree shears).)~~ **Wire rope.** ((1) Operators shall ensure that all persons are safely in the clear before initiating or continuing the movement of any mobile equipment. The machine

~~shall be operated at such a distance from employees and other machines such that operation will not create a hazard for an employee.~~

~~(2) No person shall ride on any mobile equipment, except where adequate and protected seats, or other safe facilities have been provided.~~

~~(3) While in use, tractors and skidders shall be maintained in a safe operable condition, with all guards in proper places.~~

~~(4) No person shall be under a tractor or other mobile equipment, or be placed in a hazardous position around the equipment without first making certain it cannot move or be moved by another person.~~

~~(5) Prior to working on tractor or skidder blades, arches, or other equipment, the equipment must be blocked up lowered to the ground or otherwise secured against slipping or falling.~~

(6) When making repairs to tractor or skidder equipment, such as blades, arches, etc., the engine shall be stopped. The engine may be run when necessary for making adjustments to the engine or equipment.

(7) Operators shall operate and control their machines in a safe manner and avoid operations in areas where machine stability may not be maintained.

(8) The following safe work procedures shall be adhered to:

(a) When hobo logs are picked up with a log turn, the turn shall be dropped to free the hobo.

(b) No line shall be allowed to trail behind the tractor or skidder where it may hang up and snap forward.

(c) Each machine shall be positioned during winching so the machine and winch are operated within their design limits.

(d) Grapple skidded log turns shall be evenly bunched with squared butt ends, securely grappled and safely positioned before travel commences.

(e) Before climbing or descending grades, the proper gear shall be selected to allow the engine to govern the tractor speed.

(f) On side hills, an abrupt turn uphill shall be avoided. The tractor or skidder shall be backed downhill first then turned uphill. The turn may be slacked off as necessary to permit this maneuver.

(g) The operator shall, before leaving a tractor or skidder, lower the blade to the ground and apply the parking brake.

(h) Tractor or skidder speed shall be adjusted to the circumstances prevailing. Excessive or uncontrolled speed shall be avoided.

(i) Winch lines on logging tractors or skidders shall be attached to the drum with a break-away device.

(9) When hand signals are required for giving instructions to the tractor or skidder operator, the signals as illustrated in Figure No. 5 shall be used.

(10) Brakes:

(a) Service brakes shall be sufficient to stop and hold each machine and its rated load capacity on the slopes over which it is being operated. They shall be effective whether or not the engine is running and regardless of the direction of travel.

(b) Each machine placed into initial service on or after September 8, 1995, shall also be equipped with back-up or secondary brakes that are capable of stopping the machine regardless of the direction of travel or whether the engine is running; and parking brakes that are capable of continuously holding a stopped machine stationary.

(11) Tractors and skidders shall be provided with a brake locking device that will hold the machine indefinitely on any grade on which it is being operated.

(12) Operating a tractor or skidder with defective steering or braking devices is prohibited.

(13) Arches shall be equipped with line guards.

(14) Where tractor and skidder operators or helpers, because of the nature of their work duties, are required to wear calk-soled footwear, the decks and operating foot controls shall be covered with a suitable nonslip material.

(15) Glass used in windshields or in cabs shall be of "safety glass." Broken or cracked glass shall be replaced as soon as practical. Barriers shall be provided, as needed, to protect the glass from being broken by using screen, bars or other material. The protective material shall be a type that will not create a hazard by undue impairment of the operators' vision.

(16) Barriers shall be constructed of at least 1/4 inch diameter woven wire with two inch maximum openings or other material providing equivalent protection. The barrier shall be installed at least four inches from the glass to provide space to clean the glass.

(17) Enclosed type cabs installed on mobile equipment shall have two means of exit. One may be deemed as an emergency exit and be available for use at all times, regardless of the position of the side arms or other movable parts of the machine. (An easily removable window will be acceptable as the emergency exit if it is of adequate size for a person to readily exit through.)

(18) Before the operator leaves the operator's station of a machine, it shall be secured as follows:

(a) The parking brake or brake locks shall be applied;

(b) The transmission shall be placed in the manufacturer's specified park position; and

(c) Each moving element such as, but not limited to blades, buckets, saws and shears, shall be lowered to the ground or otherwise secured.

(19) No load shall exceed the rated capacity of the pallet, trailer, or other carrier.

(20) Seat belts required by WAC 296-54-515(19) shall have buckles of the quick release type, designed to minimize the possibility of accidental release.

(21) Before a tractor or skidder is started or moved, the operator shall be certain nothing is in the way that could be set in motion by the movement of the machine thereby endangering persons.

(22) A log or turn shall not be moved until all persons are in the clear (behind the turn and on the uphill side on sloping ground):

(23) Towed equipment, such as but not limited to, skid pans, pallets, arches, and trailers, shall be attached to each machine or vehicle in such a manner as to allow a full ninety degree turn; to prevent overrunning of the towing machine or vehicle; and to assure that the operator is always in control of the towed equipment.

(24) Tractors or skidders shall not be operated within a radius of two tree heights of trees being felled unless called upon by the cutter or faller to ground lodged trees. All cutters shall be notified of the tractor or skidder entrance into the area and all felling within two tree lengths of the tractor or skidder shall be stopped.

(25) Except where electrical distribution and transmission lines have been de-energized and visibly grounded at point of work or where insulating barriers, not a part of or an attachment to the equipment or machinery, have been erected to prevent physical contact with the lines, equipment or machines shall be operated proximate to power lines only in accordance with the following:

~~(a) For lines rated 50 kV or below, minimum clearance between the lines and any part of the equipment or machine shall be ten feet;~~

~~(b) For lines rated over 50 kV, minimum clearance between the lines and any part of the equipment or machine shall be ten feet plus 0.4 inch for each 1 kV over 50 kV, or twice the length of the line insulator, but never less than ten feet;~~

~~(c) In transit with no load and boom or extended equipment lowered, the equipment clearance shall be a minimum of four feet for voltages less than 50 kV, and ten feet for voltages over 50 kV up to and including 345 kV, and sixteen feet for voltages up to and including 750 kV;~~

~~(d) A person shall be designated to observe clearance of the equipment and give timely warning for all operations where it is difficult for the operator to maintain the desired clearance by visual means;~~

~~(e) Any overhead wire shall be considered to be an energized line unless and until the person owning such line or the electrical utility authorities indicate it is not an energized line and it has been visibly grounded.~~

~~(26) Log piles and decks shall be located and constructed to provide working areas around them that will accommodate the safe movement of personnel and machinery.~~

~~(27) Braking systems required by subsection (10) of this section, shall be capable of stopping the equipment fully loaded as specified in the society of automotive engineers technical reports listed in subdivisions (a), (b), (c) or (d) of this subsection and shall be installed by June 30, 1973. All rubber-tired tractors or other types of mobile equipment listed below, manufactured after the effective date of these standards, shall have braking systems and requirements specified in the applicable technical reports of the society of automotive engineers as follows:~~

~~(a) Brake systems for off-highway, rubber-tired, self-propelled scrapers shall meet or exceed the requirements outlined in SAE technical report J319b.~~

~~(b) Brake systems for off-highway, rubber-tired, front-end loaders, log stackers and dozers (skidders) shall meet or exceed the requirements outlined in SAE technical report J237.~~

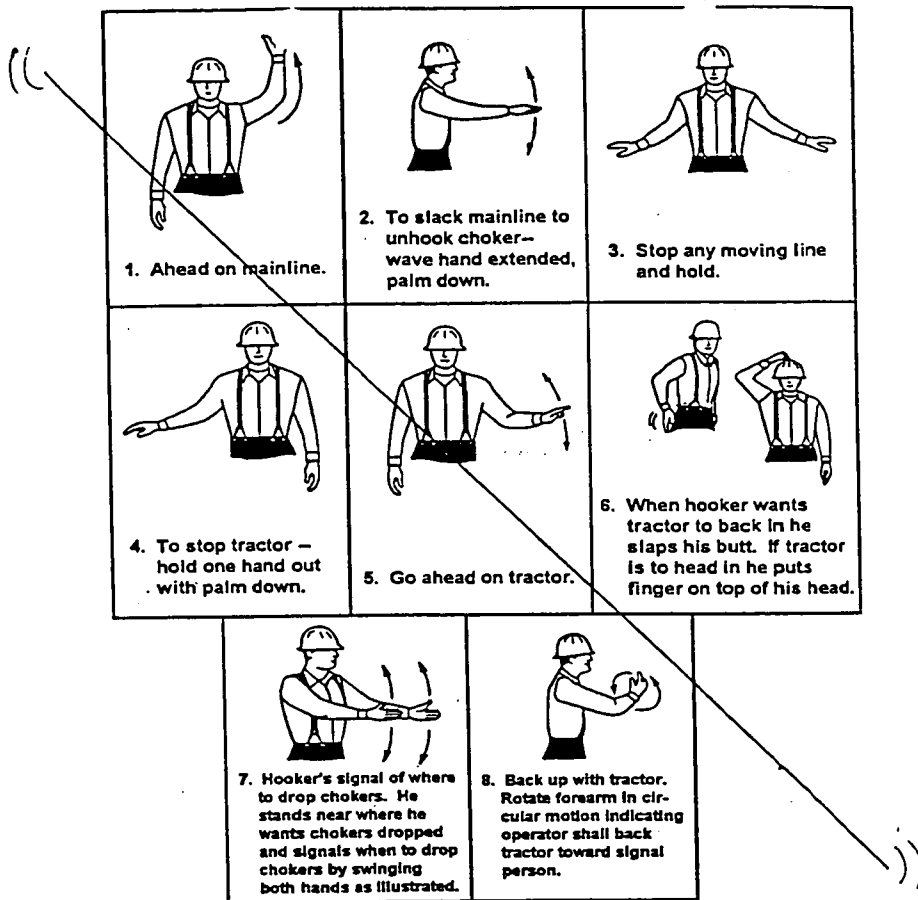
~~(c) Brake systems for rubber-tired, self-propelled graders shall meet or exceed the requirements outlined in SAE technical report J236.~~

~~(d) Brake systems for off-highway trucks and wagons shall meet or exceed the requirements outlined in SAE technical report J166.~~

~~(28) The yarding machine or vehicle, including its load, shall be operated with safe clearance from all obstructions.~~

~~(29) The overhead covering of each cab shall be of solid material and shall extend over the entire canopy.~~

~~(30) If a hydraulic or pneumatic storage device can move the moving elements such as, but not limited to, blades, buckets, saws and shears, after the machine is shut down, the pressure or stored energy from the element shall be discharged as specified by the manufacturer.~~



(1) Wire rope must be of the same or better grade as originally recommended by the equipment manufacturer.

(2) Wire rope must be removed from service when any of the following conditions exist:

(a) In running ropes, six randomly distributed broken wires in one lay or three broken wires in one strand in one lay;

(b) Wear of one-third the original diameter of outside individual wires. Kinking, crushing, birdcaging, or any other damage resulting in distortion of the rope structure;

(c) Evidence of any heat damage from any cause;

(d) Reductions from nominal diameter of more than 3/64-inch for diameters to and including 3/4-inch, 1/16-inch for diameters 7/8-inch to 1-1/8-inch, inclusive, 3/32-inch for diameters 1-1/4-inches to 1-1/2-inches inclusive;

(e) In standing ropes, more than two broken wires in one lay in sections beyond end connections or more than one broken wire at an end connection;

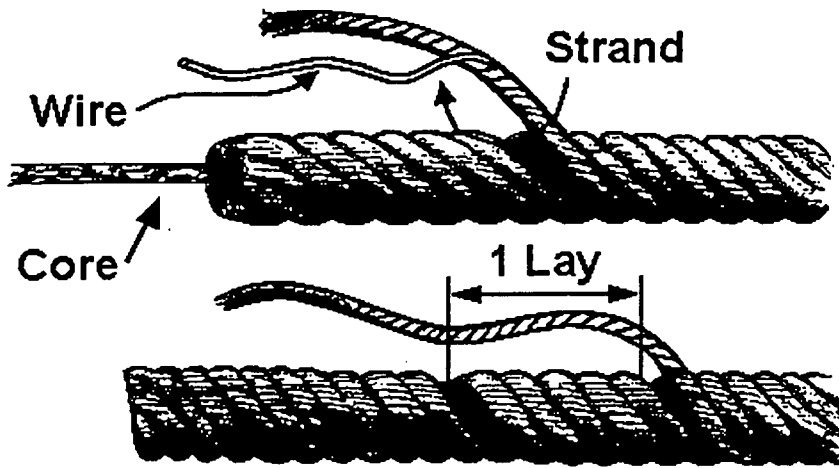
(f) In standing ropes, when twelve and one-half percent of the wires are broken within a distance of one wrap (lay); and

(g) Corroded, damaged, or improperly applied end connections.

(3) Wire rope must be kept lubricated as conditions of use require.

EXCEPTION: This section does not apply to chokers.

PERMANENT



*Wire rope selection is an important element in cable logging.*

**WIRE ROPE**

**NEW SECTION**

**WAC 296-54-55710 Wire rope—Cutting.** (1) Hard hammers must not be used for cutting cable with a wire ax or when splicing.

(2) Employees must wear eye protection when cutting lines.

**NEW SECTION**

**WAC 296-54-55720 Wire rope—Splicing.** (1) Marlin spikes must be used for splicing. The marlin spikes must be:

(a) Large enough for the size of the line being spliced; and

(b) Maintained in good condition;

(2) Short splices, eye-to-eye splices, cat's paws, and knots are prohibited except for moving nonload-bearing lines. Knots may be used on single drum tractors, grapple pickup lines, and dropline carriage systems using slider bells if the knot is tied on the end of the dropline.

(3) Wire rope one-half inch in diameter or less must be tucked at least two times provided the rope is used only as a strawline.

(4) Eye splices in all regular lay lines and straps must be tucked at least three times.

(5) Eye splices in lang lay lines must be tucked at least four times.

(6) Splices, other than eye splices, in lang lay loading lines are prohibited.

(7) Long splices must be used to permanently join regular lay running line.

(8) The length of line strand to be unraveled to make a long splice in wire rope must be as shown in Table 2: Length

of Line Strand. The full length of the splice is twice the length of the rope to be unraveled.

Table 2: Length of Line Strand

Rope Diameter	To Be Unraveled	Total Length
1/4"	8'	16'
3/8"	8'	16'
1/2"	10'	20'
5/8"	13'	26'
3/4"	15'	30'
7/8"	18'	36'
1"	20'	40'
1-1/8"	23'	46'
1-1/4"	25'	50'
1-3/8"	28'	56'
1-1/2"	30'	60'
1-5/8"	33'	66'
1-3/4"	35'	70'
1-7/8"	38'	76'
2"	40'	80'

**NEW SECTION**

**WAC 296-54-55730 Wire rope—Attaching end fastenings.** (1) The manufacturer's recommendations must be followed when attaching sockets and other end fastenings.

PERMANENT

(2) Using cable clips or clamps for joining lines is prohibited, except to transfer slack lines from one place to another.

(3) When U-bolt cable clips are used to form eyes, Table 3: U-bolt Cable Clips to Form Eyes must be used to determine the number and spacing of clips.

Table 3: U-bolt Cable Clips to Form Eyes

Improved Plow Steel Diameter of Rope	Number of Clips Forged	Required Other Material	Minimum Space Between Clips
3/8 to 5/8 inch	3	4	-3/4 inch
3/4 inch	4	5	4-1/2 inch
7/8 inch	4	5	5-1/4 inch
1 inch	5	6	6 inches
1-1/8 inch	6	6	6-3/4 inch
1-1/4 inch	6	7	7-1/2 inch
1-3/8 inch	7	7	8-1/4 inch
1-1/2 inch	7	8	9 inches

(4) When U-bolt cable clips are used:

(a) For eye splices, the U-bolt wire rope clip must be attached so that the U section is in contact with the dead or short end of the rope (see Figure 3: Eyes Formed with U-bolt Cable Clips);

(b) U-bolt cable clips must be spaced at least six rope diameters apart to obtain the maximum holding power. Nuts must be tightened evenly and tightened again after application of the first sustained load. After the rope has been used and is under tension, the clips must be tightened again to take up any looseness caused by the tension reducing the rope diameter;

(c) With high strength wire rope, one more U-bolt cable clip must be added for each grade above improved plow steel; and

(d) Eyes formed with U-bolt cable clips are prohibited with running lines or straps.

APPLICATION OF WIRE ROPE U-BOLT CLIPS Crosby Type



1. CORRECT METHOD – U-Bolts of clips on short end of rope. (No distortion on live end of rope)



2. WRONG METHOD – U-Bolts on live end of rope. (This will cause mashed spots on live end of rope)



3. WRONG METHOD – Staggered clips; two correct and one wrong. (This will cause a mashed spot in live end of rope due to wrong position of center clip)

4. After rope is in service, and is under tension, tighten clips to take up decrease in rope diameter.

Figure 3: Eyes Formed with U-bolt Cable Clips

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

WAC 296-54-559 (~~Yarding—Helicopters and helicopter cranes.~~) **Chokers and butt rigging.** ~~(((1) Helicopters and helicopter cranes shall comply with any applicable regulations of the Federal Aviation Administration.~~

(2) Prior to each day's operation, a briefing shall be conducted. This briefing shall set forth the plan of operation for the pilot and ground personnel.

(3) A take-off path from the log pickup point shall be established, and shall be made known to all workers in that area before the first turn of logs is moved.

(4) The helicopter flight path to and from the drop zone shall be designated and no equipment or personnel (other than flight personnel necessary to assist landing and take-off) will occupy these areas during helicopter arrival or departure.

(5) The approach to the landing shall be clear and long enough to prevent tree tops from being pulled into the landing.

(6) The helicopter shall not pass over an area in which cutters are working at a height which would cause the rotor wash to inhibit a cutter's ability to safely control a tree or dislodge limbs.

(7) Drop zones shall be twice the nominal length of logs to be landed.

(8) The drop zone shall be no less than one hundred twenty five feet from the loading or decking area.

PERMANENT

(9) ~~Separate areas shall be designated for landing logs and fueling the helicopter(s).~~

(10) ~~The yarding helicopter shall be equipped with a siren to warn workers of any hazardous situation.~~

(11) ~~Workers shall remain in the clear as chokers are being delivered, and under no circumstances will workers move under the helicopter that is delivering the chokers or take hold of the chokers before they have been released by the helicopter.~~

(12) ~~Log pickup shall be arranged in a manner that the hook up crew will not work on slopes below felled and bucked timber.~~

(13) ~~If the load must be lightened, the hook shall be placed on the ground on the uphill side of the turn before the hooker approaches to release the excess logs.~~

(14) ~~Landing crew shall be in the clear before logs are dropped.~~

(15) ~~One end of all the logs in the turn shall be touching the ground and lowered to an angle of not more than 45° from the horizontal before the chokers are released.~~

(16) ~~Logs shall be laid on the ground and the helicopter will be completely free of the choker(s) before workers approach the logs.~~

(17) ~~If the load will not release from the hook, the load and the hook shall be on the ground before workers approach to release the hook manually.~~

(18) ~~Loads shall be properly slung. Tag lines shall be of a length that will not permit their being drawn up into rotors. Pressed sleeve, swaged eyes, or equivalent means shall be used for all freely suspended loads to prevent hand splices from spinning open or cable clamps from loosening.~~

(19) ~~All electrically operated cargo hooks shall have the electrical activating device so designed and installed as to prevent inadvertent operation. In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load. The hooks shall be tested prior to each day's operation to determine that the release functions properly, both electrically and mechanically.~~

(20)(a) ~~Personal protective equipment for employees receiving the load shall consist of complete eye protection and hard hats secured by chinstraps, and high visibility vests or outer garments.~~

(b) ~~Loose-fitting clothing likely to flap in the downwash, and thus be snagged on hoist line, shall not be worn.~~

(21) ~~Every practical precaution shall be taken to provide for the protection of employees from flying objects in the rotor downwash. All loose gear within one hundred feet of the place of lifting of the load, depositing the load, and all other areas susceptible to rotor downwash shall be secured or removed.~~

(22) ~~Good housekeeping shall be maintained in all helicopter loading and unloading areas.~~

(23) ~~The helicopter operator shall be responsible for size, weight, and manner in which loads are connected to the helicopter. If, for any reason, the helicopter operator believes the lift cannot be made safely, the lift shall not be made.~~

(24) ~~Employees shall not perform work under hovering craft except for that limited period of time necessary to guide, secure, hook and unhook loads. Regardless of whether the hooking or unhooking of a load takes place on the ground or~~

~~other location in an elevated work position in structural members, a safe means of access and egress, to include an unprogrammed emergency escape route or routes, shall be provided for the employees hooking or unhooking loads.~~

(25) ~~Static charge on the suspended load shall be dissipated with a grounding device before ground personnel touch the suspended load, or protective rubber gloves shall be worn by all ground personnel touching the suspended load.~~

(26) ~~The weight of an external load shall not exceed the manufacturer's rating.~~

(27) ~~Hoist wires or other gear, except for pulling lines or conductors that are allowed to "pay out" from a container or roll off a reel, shall not be attached to any fixed ground structure, or allowed to foul on any fixed structure.~~

(28) ~~When visibility is reduced by dust or other conditions, ground personnel shall exercise special caution to keep clear of main and stabilizing rotors. Precautions shall also be taken by the employer to eliminate as far as practical reduced visibility.~~

(29) ~~Signal systems between aircrew and ground personnel shall be understood and checked in advance of hoisting the load. This applies to either radio or hand signal systems. Hand signals shall be as shown in Figure 6.~~

(30) ~~No unauthorized person shall be allowed to approach within fifty feet of the helicopter when the rotor blades are turning.~~

(31) ~~Whenever approaching or leaving a helicopter with blades rotating, all employees shall remain in full view of the pilot and keep in a crouched position. Employees shall avoid the area from the cockpit or cabin rearward unless authorized by the helicopter operator to work there.~~

(32) ~~Sufficient ground personnel shall be provided, when required, for safe helicopter loading and unloading operations.~~

(33) ~~There shall be constant reliable communication between the pilot, and a designated employee of the ground crew who acts as a signalperson during the period of loading and unloading. This signalperson shall be distinctly recognizable from other ground personnel.~~

(34) ~~Open fires shall not be permitted in an area that could result in such fires being spread by the rotor downwash.~~

(35) ~~Under no circumstances shall the refueling of any type helicopter with either aviation gasoline or Jet B (turbine) type fuel be permitted while the engines are running.~~

(36) ~~Helicopters using Jet A (turbine kerosene) type fuel may be refueled with engines running provided the following criteria is met:~~

(a) ~~No unauthorized persons shall be allowed within fifty feet of the refueling operation or fueling equipment.~~

(b) ~~A minimum of one thirty pound fire extinguisher, or a combination of same, good for class A, B and C fires, shall be provided within one hundred feet on the upwind side of the refueling operation.~~

(c) ~~All fueling personnel shall be thoroughly trained in the refueling operation and in the use of the available fire extinguishing equipment they may be expected to utilize.~~

(d) ~~There shall be no smoking, open flames, exposed flame heaters, flare pots or open flame lights within fifty feet~~



of the refueling area or fueling equipment. All entrances to the refueling area shall be posted with "NO SMOKING" signs.

(e) Due to the numerous causes of static electricity, it shall be considered present at all times. Prior to starting refueling operations, the fueling equipment and the helicopter shall be grounded and the fueling nozzle shall be electrically bonded to the helicopter. The use of conductive hose shall not be accepted to accomplish this bonding. All grounding and bonding connections shall be electrically and mechanically firm, to clean unpainted metal parts.

(f) To control spills, fuel shall be pumped either by hand or power. Pouring or gravity flow shall not be permitted. Self-closing nozzles or deadman controls shall be used and shall not be blocked open. Nozzles shall not be dragged along the ground.

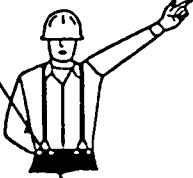







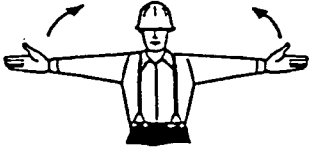

(g) In case of a spill, the fueling operation shall be immediately stopped until such time as the person in charge determines that it is safe to resume the refueling operation.

(h) When ambient temperatures have been in the 100 degree F. range for an extended period of time, all refueling of helicopters with the engines running shall be suspended until such time as conditions become suitable to resume refueling with the engines running.

(37) Helicopters with their engines stopped being refueled with aviation gasoline or Jet B (turbine) type fuel, shall also comply with subsection (36)(a) through (g) of this section.

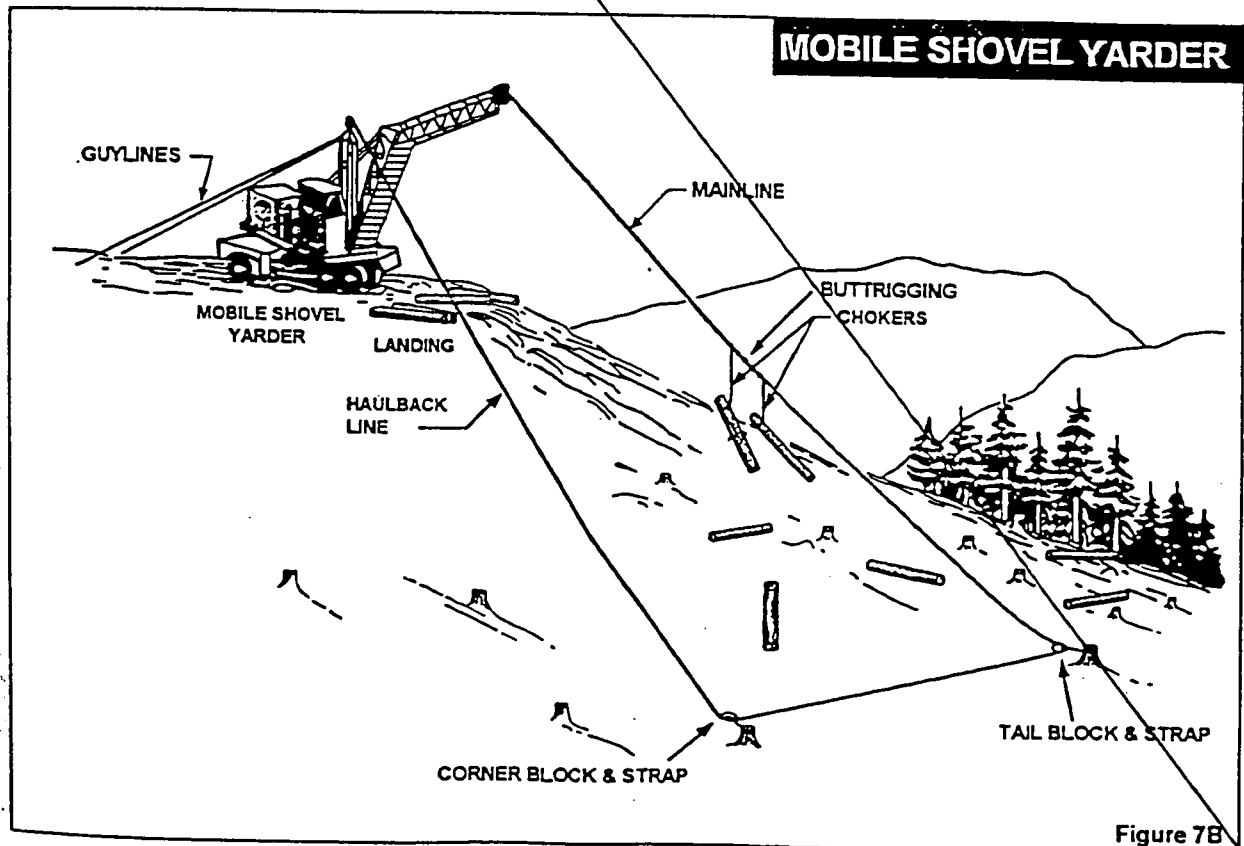
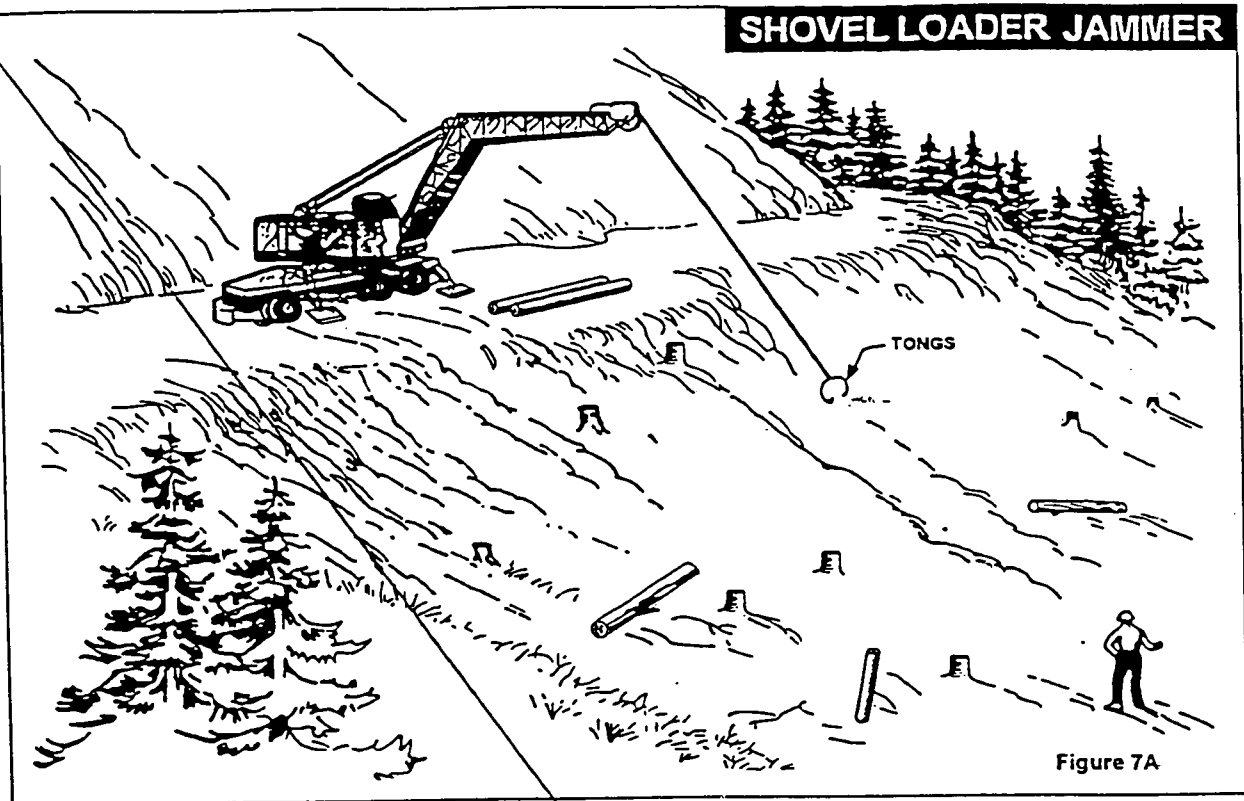
(38) Hook on persons in logging operations shall wear contrasting colored hard hats, with chinstraps, and high visibility vests or outer garments to enable the helicopter operator to readily identify their location.

(39) Riding the load or hook of a helicopter is prohibited except in the case of an emergency with the proper safety gear.

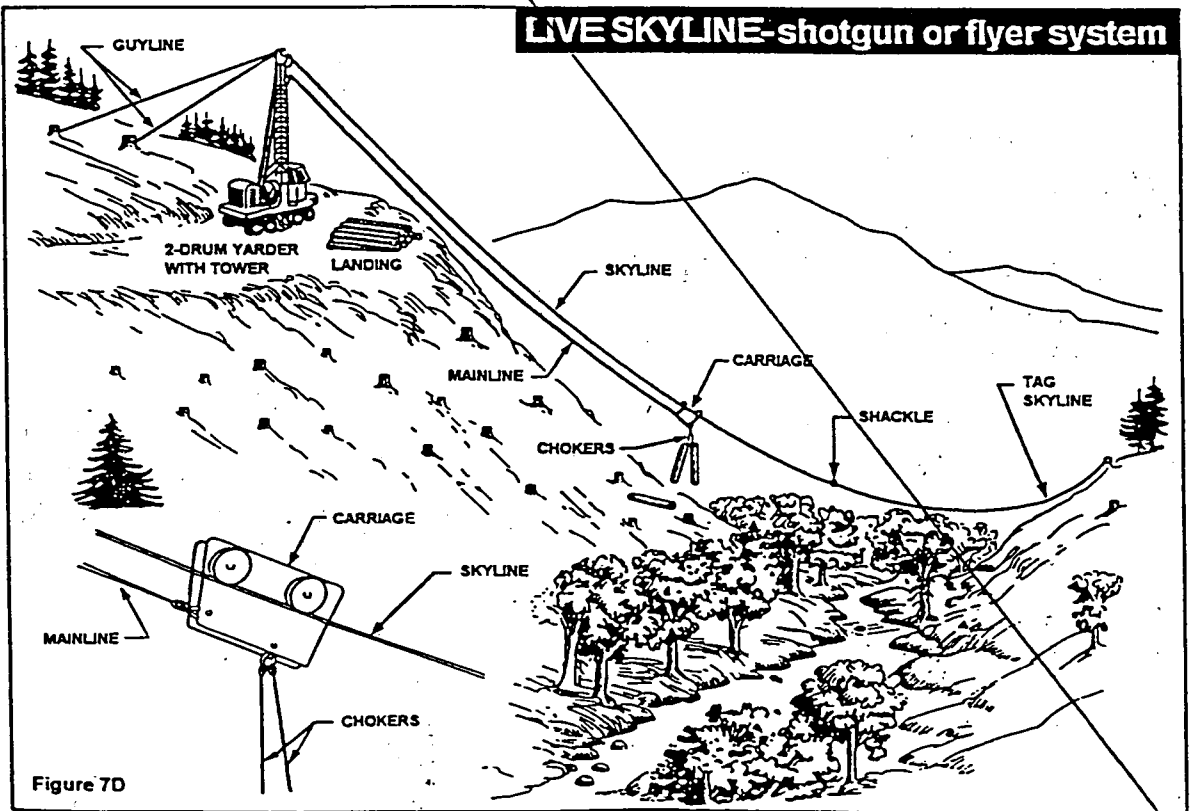
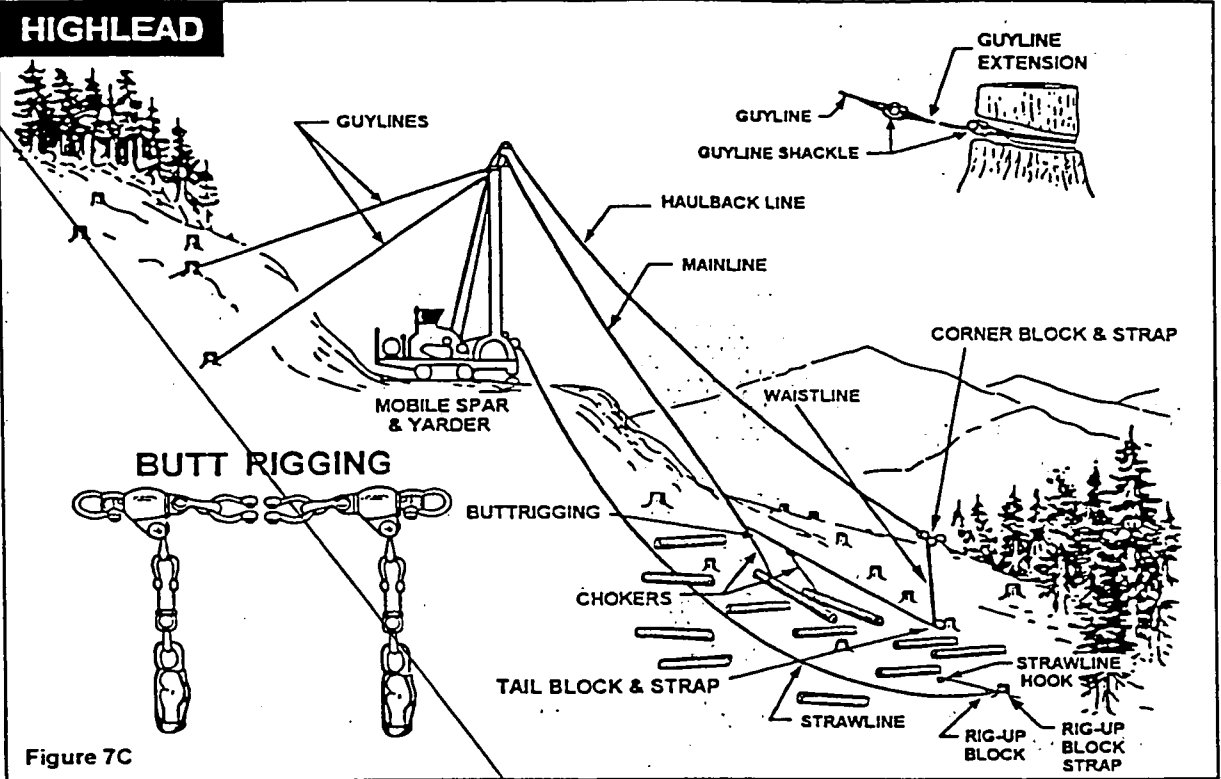
 <p>1. Takeoff. Right hand behind back; left hand pointing up.</p>	 <p>2. Land. Arms crossed in front of body and pointing downward.</p>	 <p>3. Hold-Hover. The signal "Hold" is executed by placing arms over head with clenched fists.</p>	
 <p>4. Move forward. Combination of arm and hand movement in a collecting motion, pulling toward body.</p>	 <p>5. Move rearward. Hands above arm, palms out, using a shoving motion.</p>	 <p>6. Release Sling. Load. Left arm held down away from body. Right arm slashes down across body.</p>	
 <p>7. Move right. Left arm extended horizontally; right arm sweeps upward to position over head.</p>		 <p>8. Move left. Right arm extended horizontally; left arm sweeps upward to position over head.</p>	
 <p>9. Move upward. Arms extended, "palms up; arms sweeping up.</p>		 <p>10. Move Downward. Arms extended, palms down; arms sweeping down.</p>	

PERMANENT

Note: See Figures No. 7 A through 7 P, for illustrations of various types of cable logging systems.  
 See Figures No. 7 Q through 7 U, for illustrations of whistle signals used on various cable logging systems.



PERMANENT



PERMANENT

### SLACK LINE SYSTEM

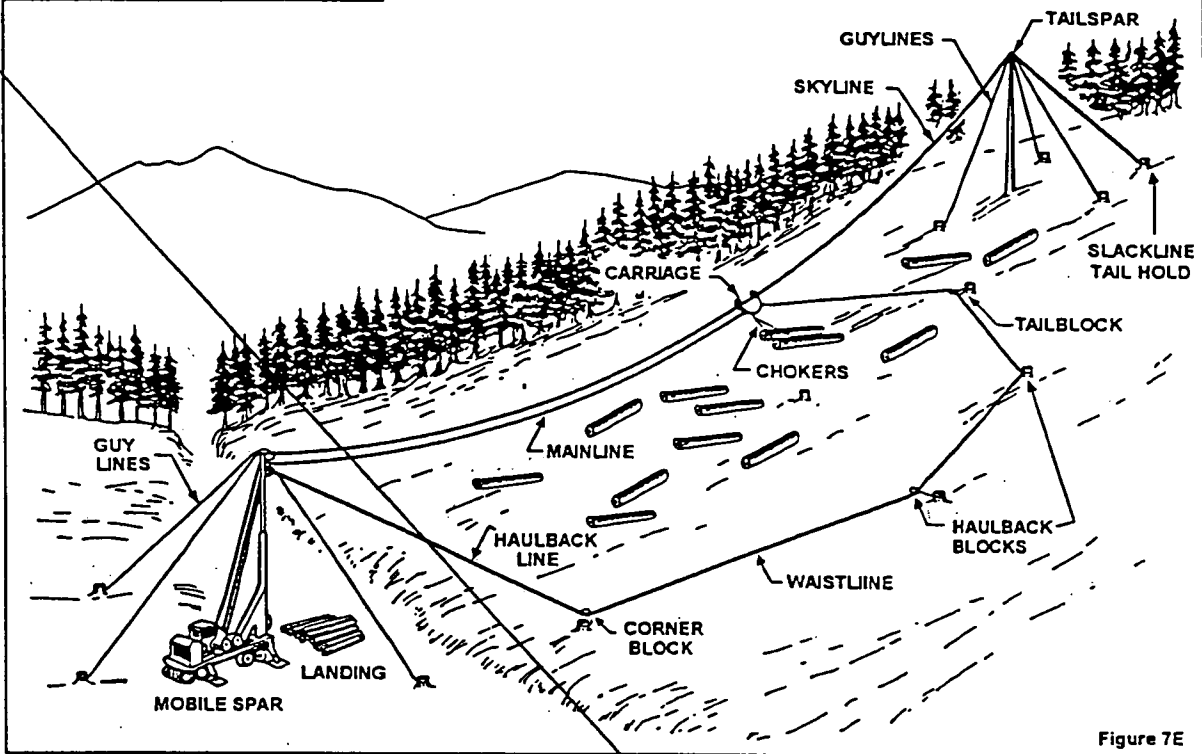


Figure 7E

### SKIDDER SYSTEM

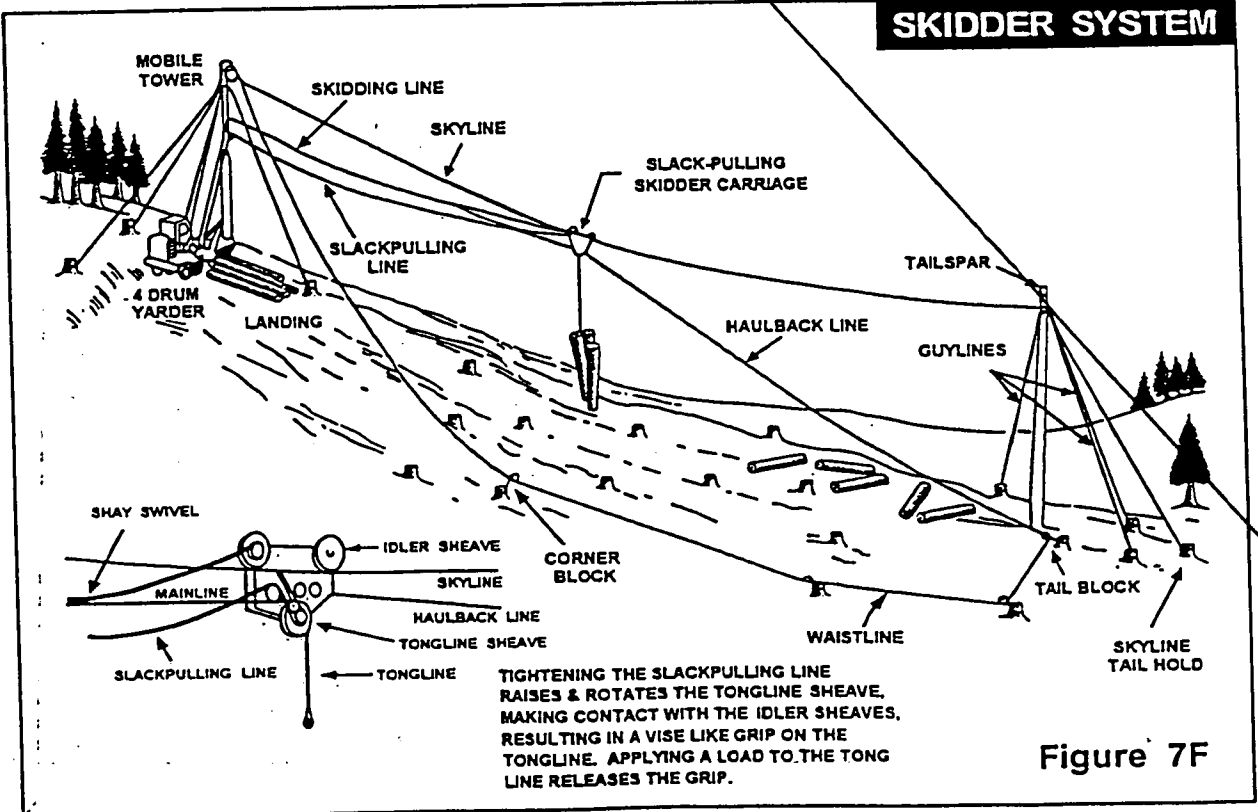
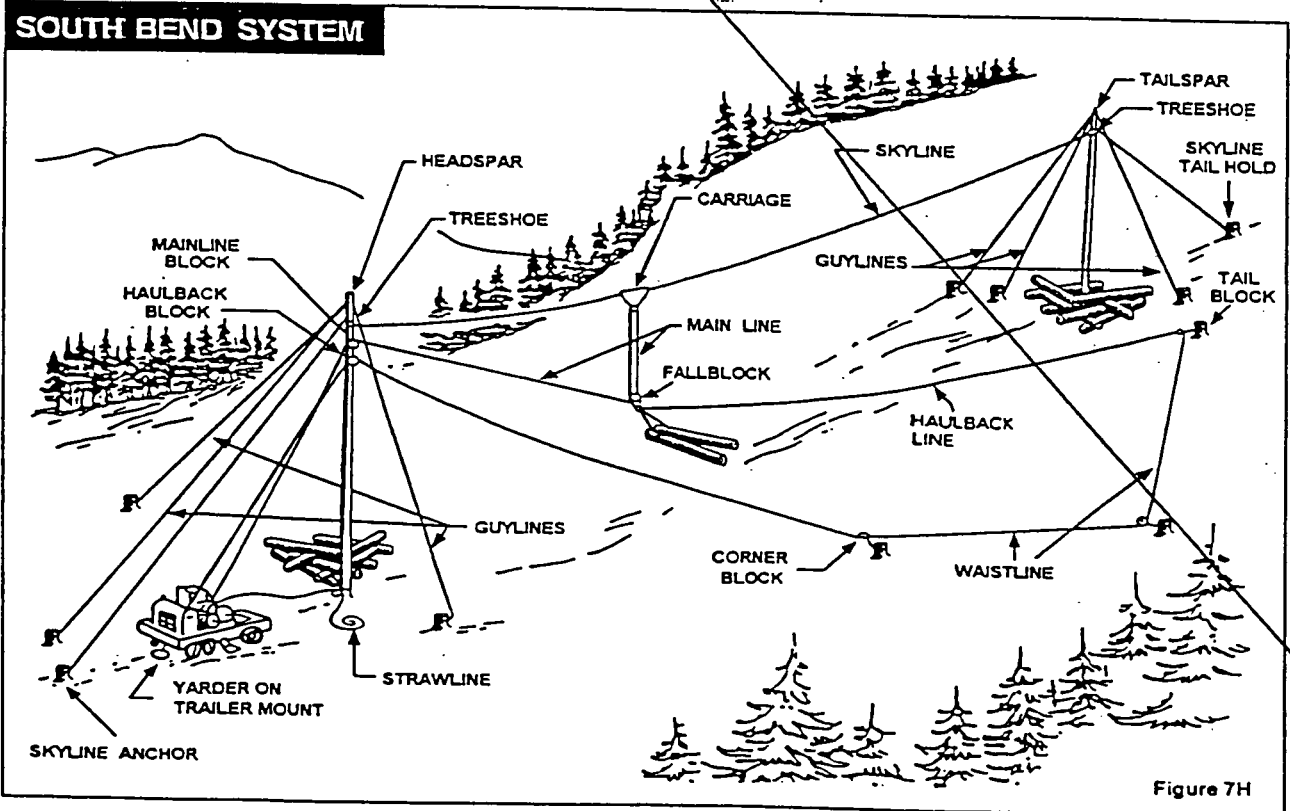
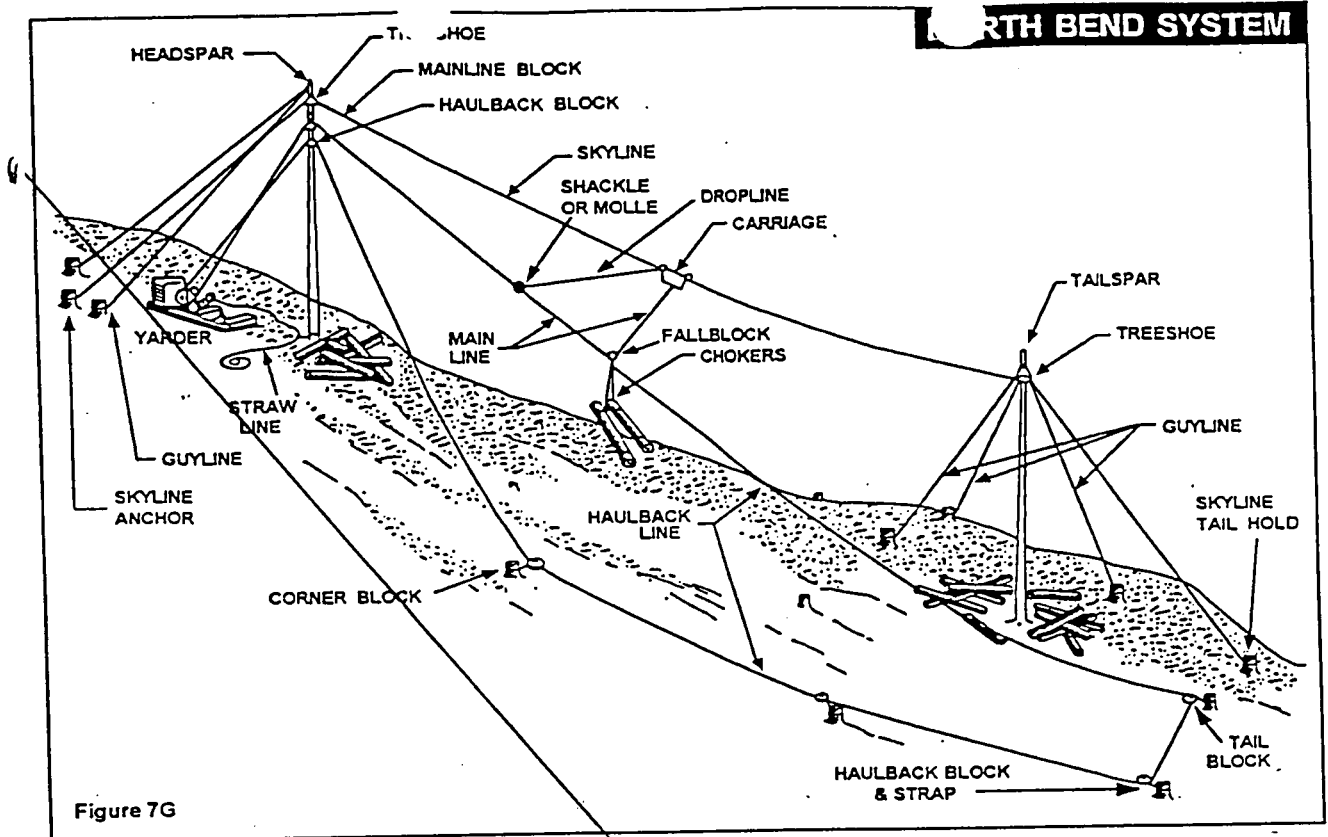


Figure 7F

PERMANENT



PERMANENT

**STANDING SKYLINE - RADIO CONTROLLED CARRIAGE**

**mobile tower**

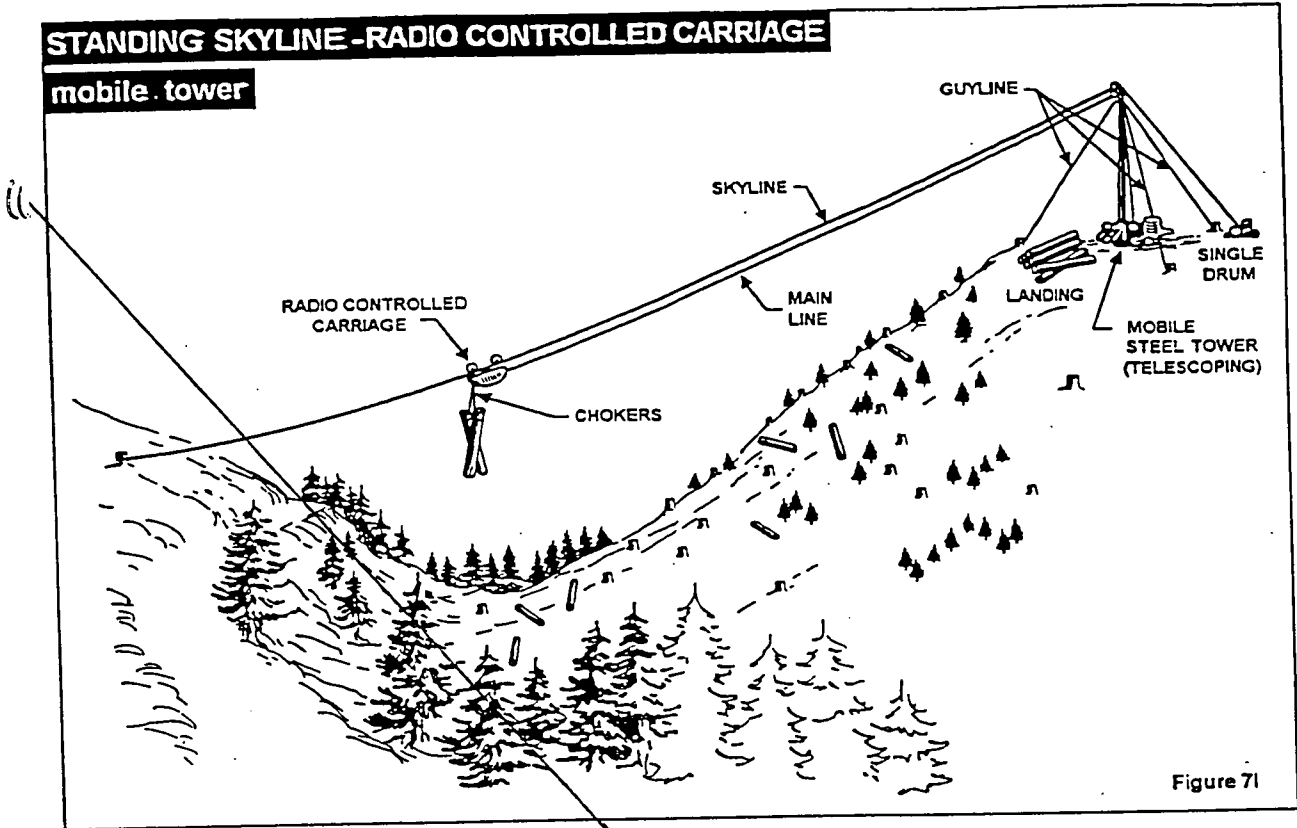


Figure 7i

**SIDEMOUNT TOWER with mechanical slack pulling carriage**

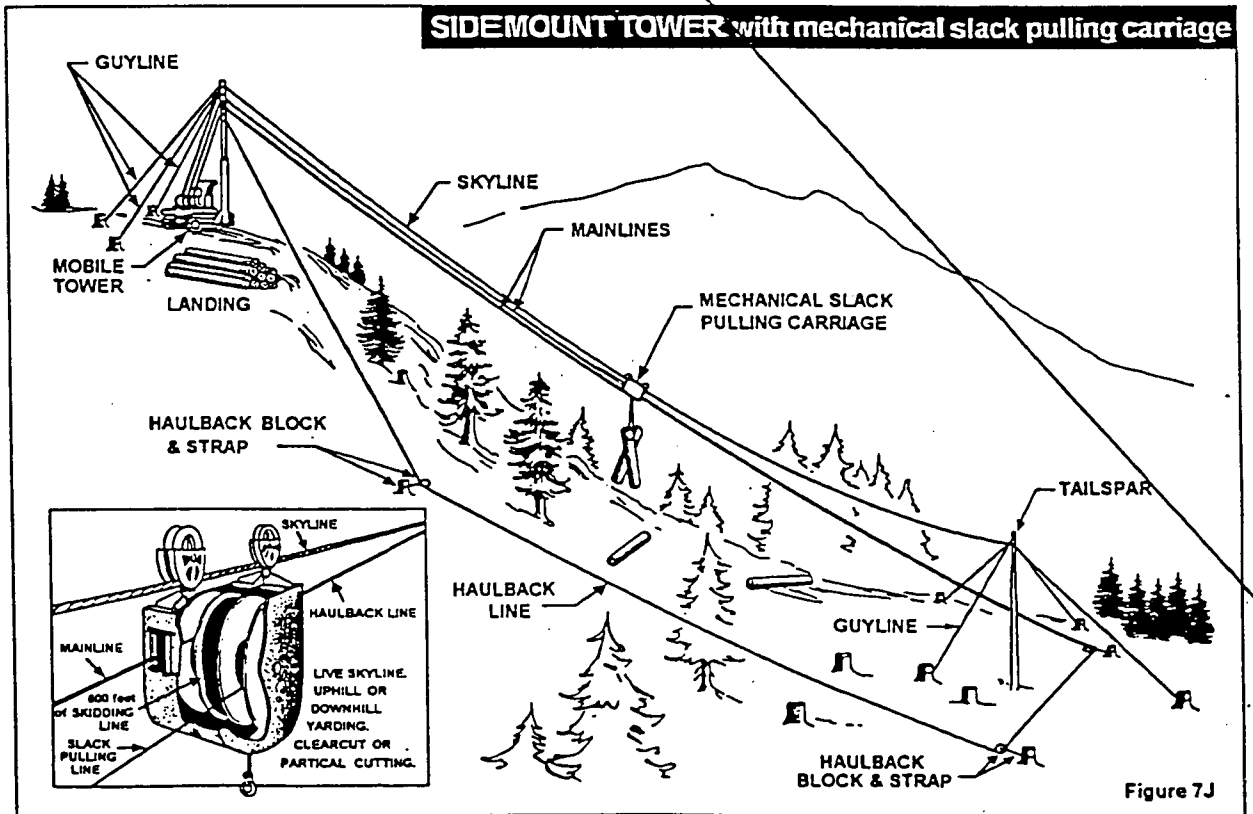
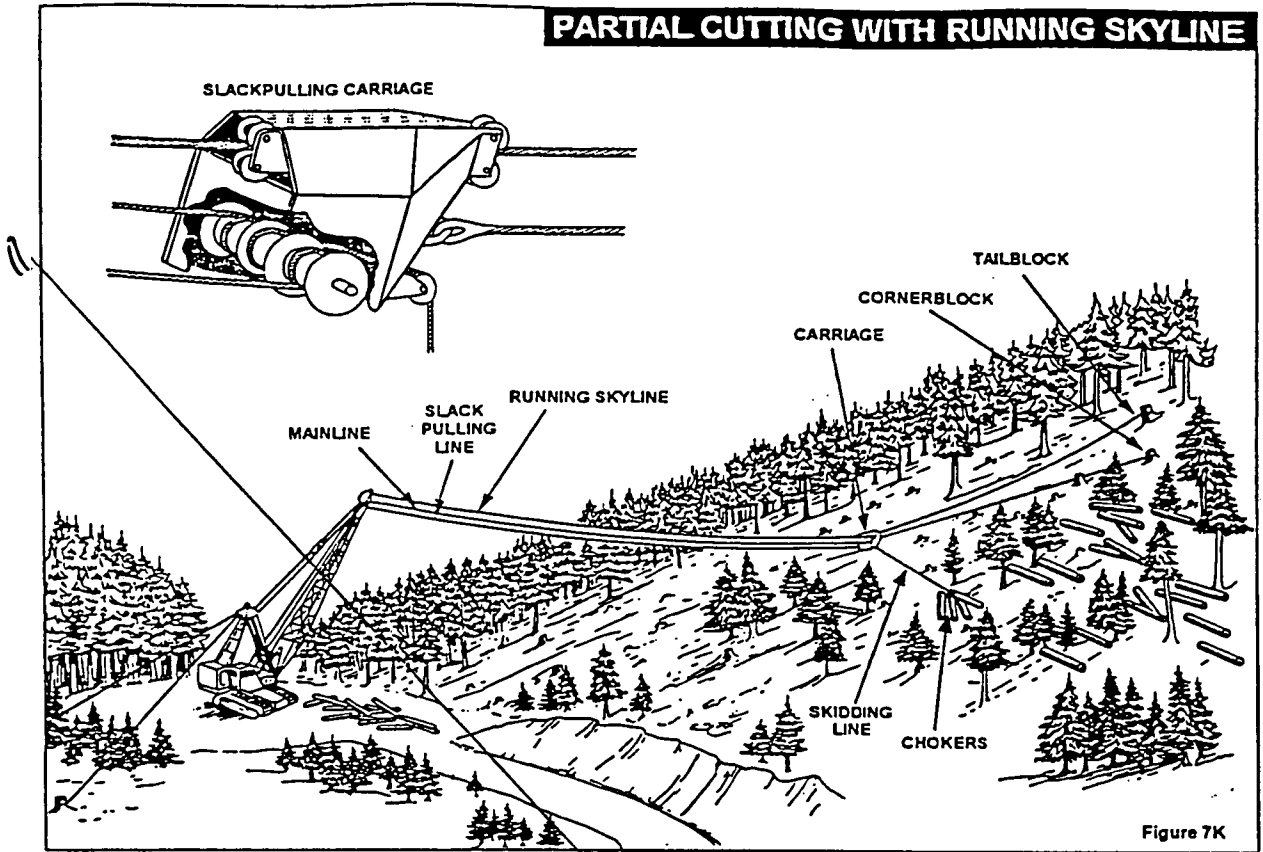


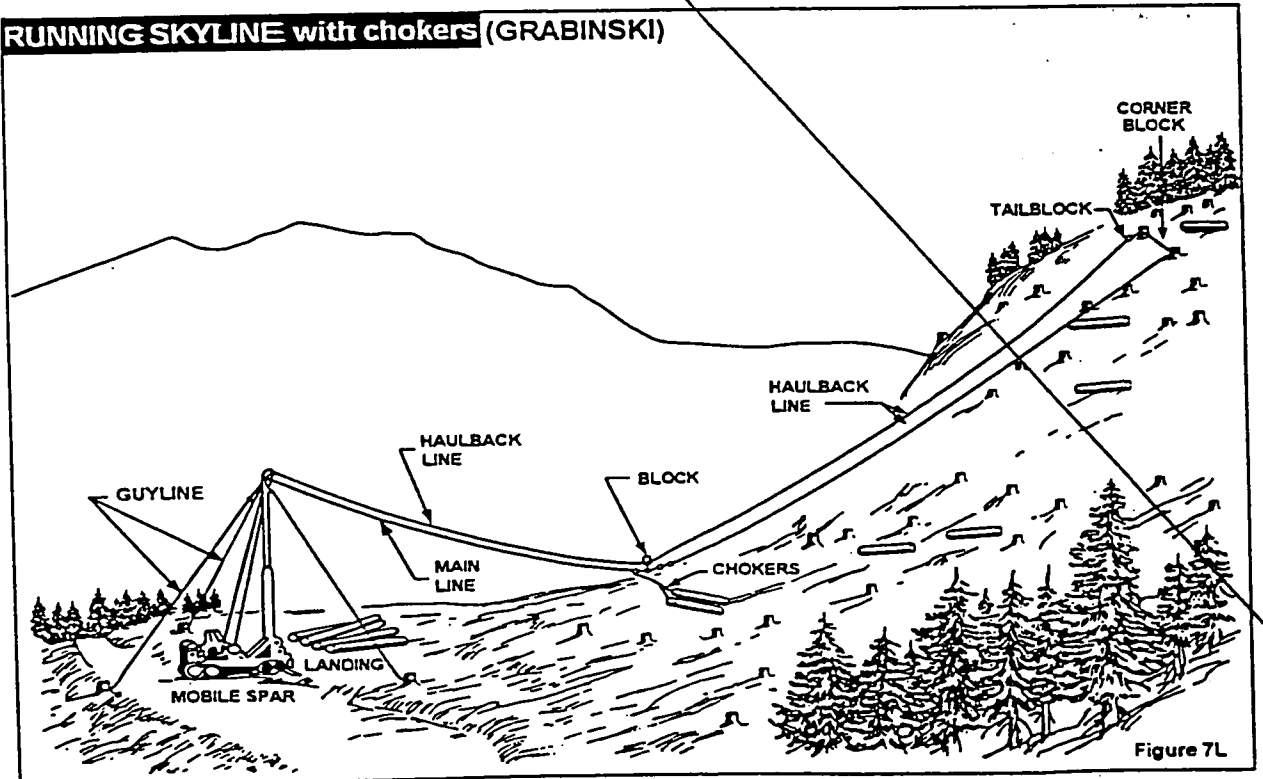
Figure 7j

PERMANENT

**PARTIAL CUTTING WITH RUNNING SKYLINE**



**RUNNING SKYLINE with chokers (GRABINSKI)**



PERMANENT



**RUNNING SKYLINE with mechanical grapple**

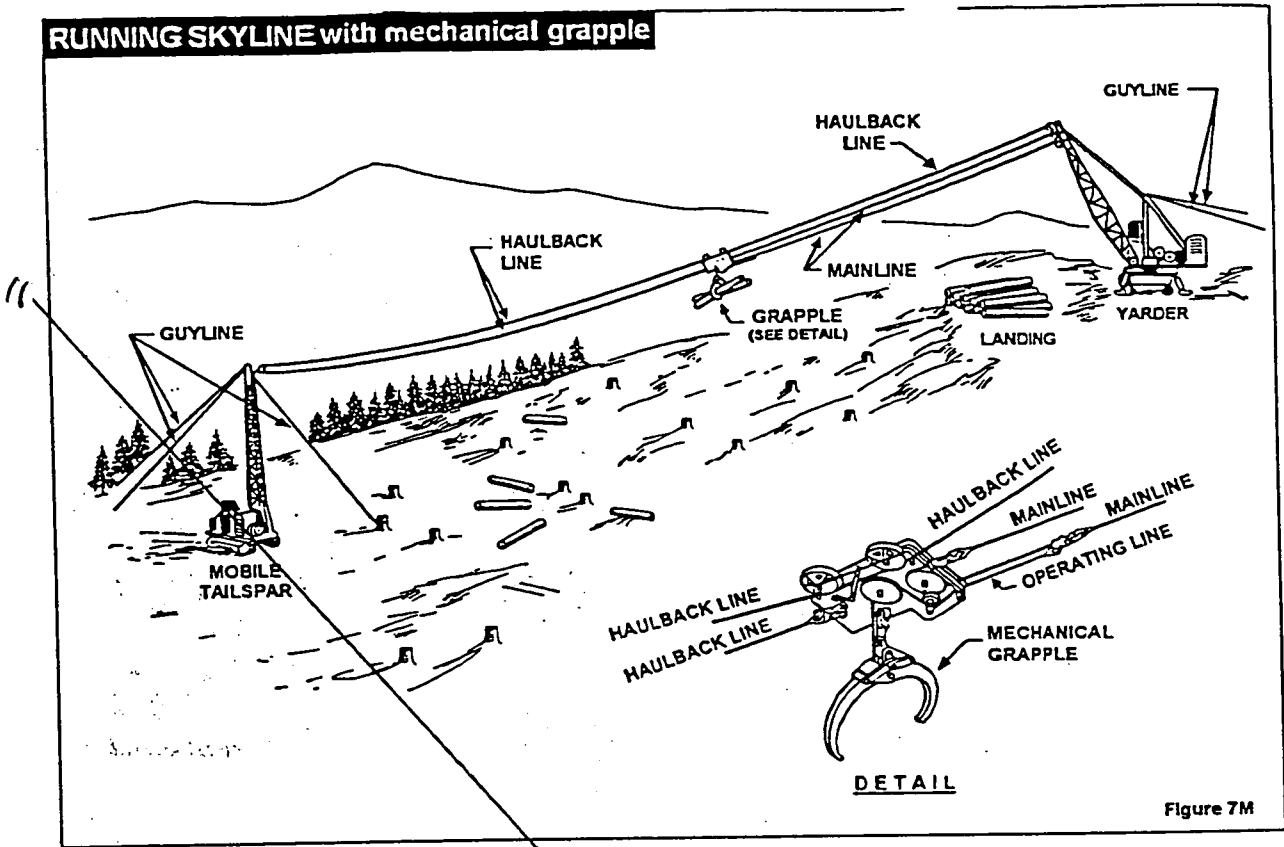


Figure 7M

**MULTISPAN SKYLINE**

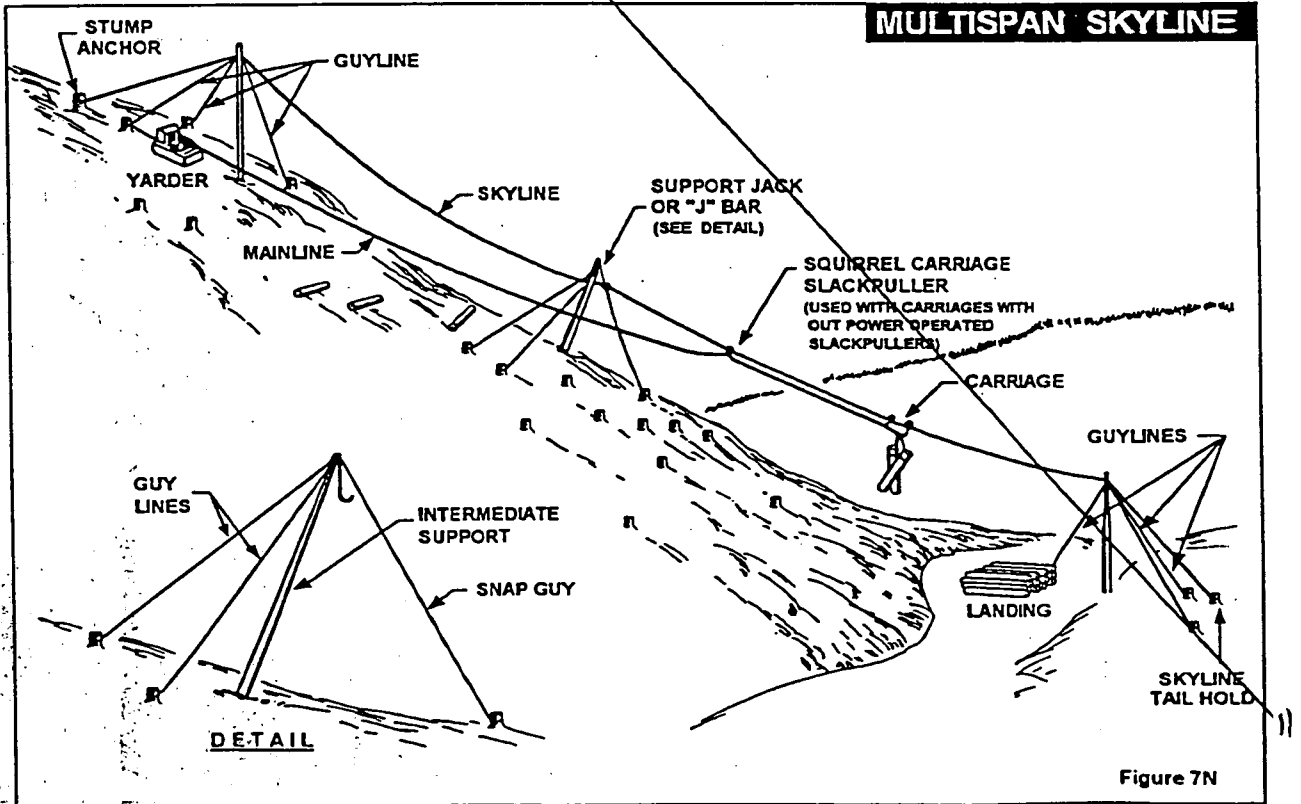
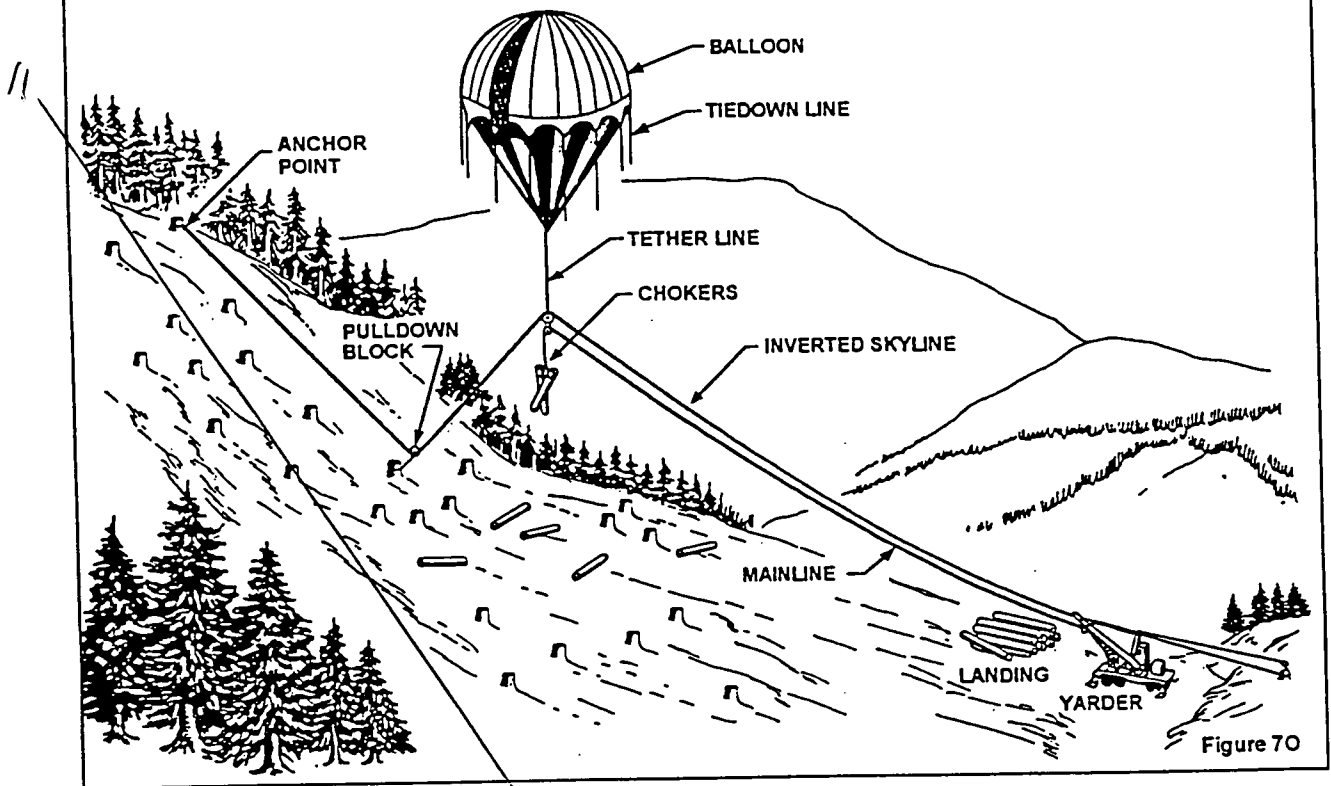


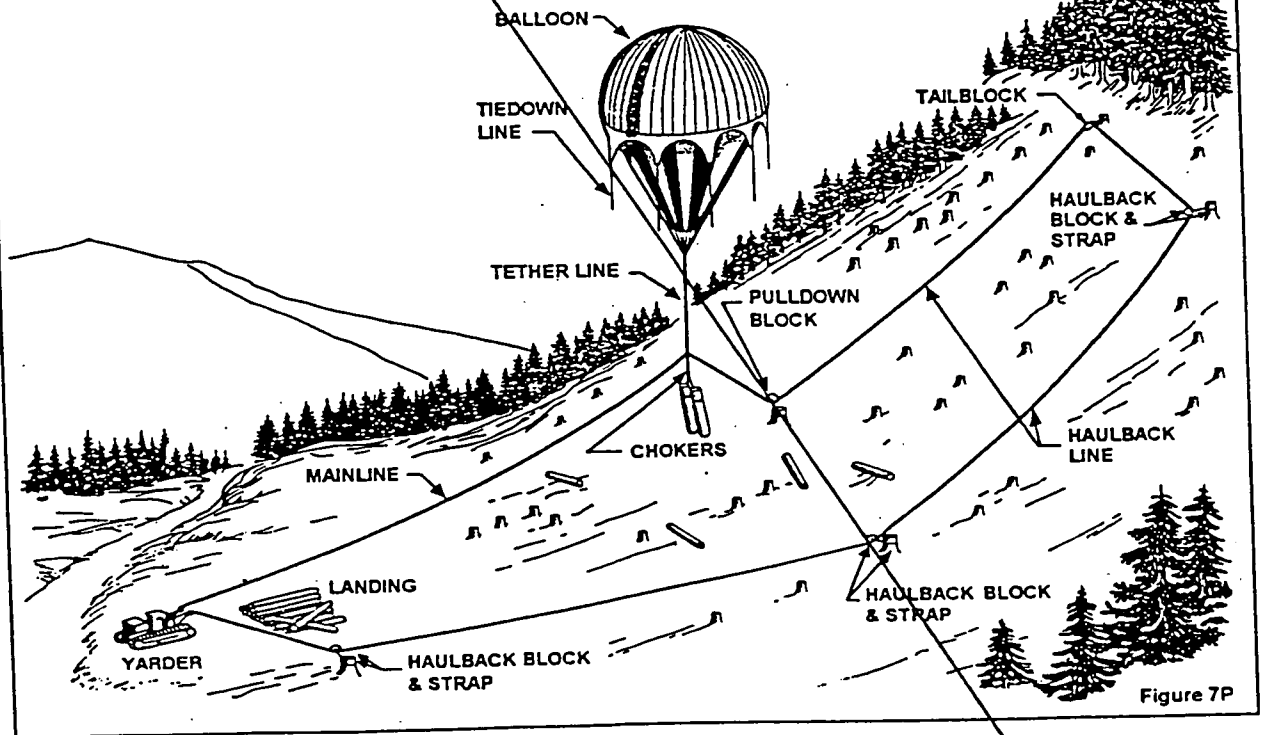
Figure 7N

PERMANENT

**BALLOON LOGGING - inverted skyline configuration**



**BALLOON LOGGING - haulback configuration**



PERMANENT

**HIGH LEAD LOGGING WHISTLE SIGNALS**

— Means longer spacing between signals:

- 1 short ..... Stop all lines.
- 3 short 3 short ..... Ahead slow on mainline.
- 3 short ..... Ahead on mainline.
- 2 short ..... Ahead on haulback.
- 2 short 2 short ..... Ahead slow on haulback.
- 3 short 1 short ..... Ahead on strawline.
- 3 short 1 short 3 short ..... Ahead slow on strawline.
- 4 short or more ..... Slack mainline.
- 2 short 4 short ..... Slack haulback.
- 3 short 1 short 4 short ..... Slack strawline.
- 3 short 2 short ..... Standing tight line.
- 1 short 1 short ..... Tight line while lines are running, or break if running tight.
- 3 short ..... When rigging is in: Straw line back on haulback.
- 3 short / plus "X" number of shorts ..... When rigging is in: Indicates number of sections of strawline back on rigging.
- 3 short 1 short 2 short ..... Strawline back on rigging.
- 1 short ..... When rigging is in: Chaser inspect and repair rigging.
- 2 short ..... When rigging is in: No chokers back.
- 2 short 1 short / plus "X" number of shorts ..... Number of chokers back.
- 2 short 4 short ..... When rigging is in: Slack haulback hold all lines until 2 short blown.
- 3 medium ..... Hooker.
- 3 medium 4 short ..... Hooker and that crew.
- 5 long ..... Climber.
- 4 long ..... Foreman.
- 1 long 1 short ..... Start or stop work.
- 7 long 2 short ..... Person injured, call transportation and stretcher.
- 1 long 1 short repeated ..... Fire.
- Grabinski system
- 2 short 1 short ..... Slack mainline and haulback together.
- 2 long ..... Take off or put on rider block.

**SKIDDER WHISTLE SIGNALS**

— Means longer spacing between signals:

- 1 short ..... Stops moving carriage— stops or goes ahead on slack puller, as case may be, if carriage is stopped.
- 2 short ..... Go ahead on skidding line holding carriage.
- 1 short 2 short ..... Pick up skidding line, easy.
- 2 short 1 short ..... Shake up carriage to clear choker.
- 2 short 2 short ..... Ahead on receding line.
- 3 short ..... Ahead on carriage, holding at present level, using interlock.
- 3 short 3 short ..... Ahead easy on skidding line.
- 2 short 2 short 2 short ..... Slack skyline, cable down.
- 2 short 2 short 2 short 1 short ..... Pick up skyline, cable up.
- 2 short 2 short 4 short ..... Slack receding line.
- 2 short 4 short ..... Slack skidding line.
- 2 short 2 short 1 short ..... Tighten all lines.
- 1 short 4 short ..... Slack off slack puller.
- 1 short 2 short ..... Pick up slack puller when slack.
- 2 short 2 short / plus "X" number of shorts ..... When carriage is in: Number of chokers wanted.
- 2 short 2 short 1 long ..... Bull choker.
- 1 short ..... When carriage is in: Inspect butt rigging.
- 2 short 4 short / 1 short ..... For each additional ten feet of tong line.
- 1 long / plus "X" number of shorts ..... Number of coils of strawline wanted.
- 5 medium ..... Tail or second rigger.
- 5 medium 4 short ..... Tail or second rigger and that crew.
- 2 medium ..... Skidder head rigger.
- 3 medium 4 short ..... Hooker and that crew.
- 2 long ..... Ahead on transfer.
- 2 long 4 short ..... Slack transfer
- 1 short 3 short ..... Ahead on carriage with slack puller line.
- 1 long ..... Ahead on strawline.
- 1 long 4 short ..... Slack strawline.
- 1 long 3 short ..... Ahead easy on strawline.

**Figure 7-Q**

PERMANENT

5 long .....	Climber.
4 long .....	Foreman.
1 long 1 short .....	Start or stop work.
7 long 2 short .....	Person injured, call transportation and stretcher.
1 long 1 short repeated .....	Fire.

**Figure 7-R**

**SLACKLINE WHISTLE SIGNALS**

— Means longer spacing between signals.

2 short 2 short 2 short — 1 short .....	First cable up when road has been changed and tail hold made fast.
2 short 2 short 2 short .....	Drop skyline.
1 short .....	Stop any moving line.
1 long .....	When logging, slack skyline.
2 short .....	Ahead on skyline.
1 long 2 short .....	Ahead easy on skyline.
3 short .....	Ahead on skidding line, holding haulback.
3 short 3 short .....	Ahead easy on skidding line with slack haulback.
4 short .....	Slack skidding line.
2 short 2 short / 2 short — 2 short .....	Ahead easy on haulback with slack skidding line.
2 short 2 short .....	Ahead on haulback.
2 short 2 short 4 short .....	Slack haulback.
2 short / 3 short .....	Pick up skyline and skid.
2 short / 2 short 2 short .....	Pick up skyline and skin.
3 short 1 short .....	When carriage is in: Strawline back on haulback.
3 short 1 short 2 short .....	When carriage is in: Strawline back on carriage.
3 short 1 short .....	When strawline is out: Ahead on strawline.
3 short 2 short .....	Tight line.
3 short 1 short 4 short .....	Slack strawline.
3 short 1 short 3 short .....	Pull easy on strawline.
2 long .....	Ahead on transfer.
2 long 4 short .....	Slack transfer.
2 long 2 short 2 short .....	When carriage is in: Transfer back on carriage.
1 long / plus "X" number of — shorts .....	When carriage is in: Number of coils.

2 short 2 short 1 short / plus — "X" number of shorts .....	When carriage is in: Number of chokers.
1 short .....	When carriage is in: Inspect rigging, repair and send back.
2 short 2 short 4 short .....	When carriage is in: Slack haulback and hold all lines until 1 short is blown then send back.
3 short 3 short .....	When carriage is in: Send back powder.
5 medium .....	Tail rigger.
5 medium 4 short .....	Tail rigger and that crew.
3 medium .....	Head hooker.
3 medium 4 short .....	Second hooker and that crew.
5 long .....	Climber.
4 long .....	Foreman.
1 long 1 short .....	Start or stop work.
7 long 2 short .....	Person injured, call transportation and stretcher.
1 long 1 short repeated .....	Fire.

**Figure 7-S**

**RUNNING SKYLINE WHISTLE SIGNALS**

— Means longer spacing between signals

1 short .....	Stop all moving lines
2 short .....	Skin carriage back
2 short 1 short .....	Slack haulback
2 short 2 short .....	Skin carriage easy
2 short 3 short .....	Standing tight line
1 short 2 short .....	Ahead on drop line
4 short .....	Slack drop line
1 short 4 short .....	Slack both mainlines
1 short 1 short .....	Stop drop line going up and move carriage forward
3 short .....	Move carriage forward
3 short 3 short .....	Move carriage forward easy
3 short 1 short .....	When strawline is out: Ahead on strawline
3 short 1 short 4 short .....	Slack strawline
3 short .....	When carriage is in: Strawline
3 short X short .....	When carriage is in: Number sections
3 short 1 short 2 short .....	When carriage is in: Strawline back on carriage

PERMANENT

2 short X short .....	When carriage is in: Num-ber of chokers
4 short .....	When carriage is in: Inspect rigging, repair and send-back
1 short .....	When carriage is in: Hold all lines until 2 shorts, then send back
3 medium .....	Head hooker
3 medium 4 short .....	Hooker and that crew
4 long .....	Foreman
1 long 1 short .....	Start or stop work
7 long 2 short .....	Person injured; call trans- portation and stretcher
1 long 1 short (repeated) .....	Fire
3 short 1 long .....	Acknowledged by engineer- to signify hazardous turn

Figure 7-T

**TENSION SYSTEM SIGNALS**

4 .....	Release tension
1 short .....	Stop carriage and start unspooling tong line
1 short .....	Stop tong line
1 short .....	Resume unspooling tong line
1 short .....	Will stop any moving line or slack tong line when ear- riage is stopped
2 short 2 short .....	Go into interlock and go- back
2 short 4 short .....	Slack haulback and let ear- riage down
After turn is set	
2 short .....	Go ahead on tong line
2 short 3 short .....	Go ahead easy on tong line
3 short .....	Go into interlock and take carriage to landing
3 short 3 short .....	Ahead on carriage easy
1 short 2 short .....	Increase tension on tong line when carriage is going in
short 1 short .....	Decrease tension on tong line when carriage is going in

Figure 7-U))

(1) Chokers must be at least one size smaller than the mainline. If a dropline is used it must have a breaking strength equal to a line one size smaller than the mainline.

(2) All butt hook rigging must be used in a manner to prevent loss of the choker.

(3) Molles or cold shuts are prohibited in butt rigging as a load bearing connection.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-561 ((Log loading—General require- ments-)) Guylines. ((1) Loading operators shall have a clear view of the landing and of the cars or trucks being loaded.**

**(2) Persons shall not ride logs, tongs, grapples or other loading devices.**

**(3) The use of plain spiked loading hooks without a bell is prohibited for loading logs.**

**(4) All limbs or knots that would project beyond the stakes or legal height shall be removed before the log is loaded on the car or truck.**

**(5) When the loading operator is not able to see the load- ing operation, signals shall be given by a designated person, who shall have a clear view of the operations and shall be vis- ible to the operator. Hand signals used shall be as illustrated in Figure No. 7, following WAC 296-54-565.**

**(6) Logs shall not be swung or suspended over occupied equipment by loading machines on landings. Persons shall not stand or walk under suspended logs.**

**(7) No one shall ride loads while cars or trucks are being spotted or dropped, except those whose regular duties require them to do so.**

**(8) Cars and trucks shall not be moved until the head loader or loading machine operator is positive that all persons are in the clear.**

**(9) When grapples, trip tongs or similar devices are used in the loading operation, they shall be lowered to the ground whenever the machine is unattended. If the device can tip or fall over, it shall be laid on its side on the ground.**

**(10) While logs are being loaded, no one shall remain on the load, chain deck or behind the cab protector. Any unat- tached material shall be removed from the top of the cab pro- tector before the truck is moved from the landing.**

**(11) To control the movement of a log truck being loaded, a positive audible means of communication shall be established between the truck driver and the loading machine operator. The established means of communication shall be familiar to all employees on the landing and shall include a danger signal to warn employees in case of an emergency. If a movable loader is being used, the loader operator shall sound a warning signal before moving the loader. The signals so used shall be easily distinguishable from other whistle or horn signals used in the landing area.**

**(12) When signals are used at a landing, reload or deck to control the movement of logging trucks in accordance with subsection (11) of this section, the following signals shall be used:**

- 1 short .....
  - 1 short .....
- Stop  
Ahead

PERMANENT

- 2 shorts ..... Back
- 2 shorts then 2 shorts ..... Wrapper
- 3 shorts ..... Check seals
- 1 long repeated ..... Danger
- 1 long ..... Loader moving

(13) No person shall be permitted alongside or underneath trucks being loaded or on the load until communication has been established with the loading machine operator and truck driver and assurance has been received that it is safe to be there.

(14) Power saws shall not be operated on top of loaded logging trucks.

(15) Standing underneath a suspended trailer or its reach is prohibited.

(16) The outside bunklogs (bottom tier) shall be loaded tight against the stakes.

(17) Logs shall be loaded in a manner to prevent undue strain on wrappers, binders, bunk stakes and chains or straps.

Note: Logs shall be considered to be "within the stakes" when one-half the log diameter is below the top of the stakes.

(18) Logs in any tier or layer unsecured by stakes or chalk blocks shall be well saddled and have their diameter centers inside the diameter centers of the outer logs of the next lower tier or layer.

(19) Bunk and wing logs shall extend not less than twelve inches beyond the front and rear bunks or stakes. On rigid type bunks, they shall extend not less than six inches beyond the front and rear bunks or stakes.

(20) Double ended logs, above the stakes, shall not be loaded on the side of the load from which the binders or wrappers are intended to be released from.

(21) Logs shall be loaded in a manner that will not impair full and free movement of the truck and trailer.

(22) Each log not contained within the stakes shall be secured with at least two wrappers before the truck leaves the immediate landing area.

(23) Loads or logs shall not be moved or shifted while wrappers and binders are being applied or adjusted.

(24) Stable loads. Loads shall be built up or loaded in a manner to be stable without the use of wrappers. Wrappers shall be considered only as precautionary measures to ensure stability of the load.

(25) Loading equipment maintained. All loading machines and equipment shall be maintained in a safe condition. The critical parts of such equipment, such as bolts in base plates, etc., that cannot be inspected while in operation, shall be inspected at reasonable intervals by a qualified person when the machine is shutdown. If indications of failure or weakness is noted or suspected, the parts in question shall be examined by an approved method and if found to be defective, shall be repaired or replaced before the equipment is put back into operation.

(26) Tongs pulling out. Where there is a danger of tongs or hooks pulling out of the log, straps shall be used. Tongs may be used on extra large logs provided the logs are barked and notched to provide a secure hold.

(27) The transport vehicle shall be positioned to provide working clearance between the vehicle and the deck.

(28) Only the loading or unloading machine operator and other personnel the employer demonstrates are essential shall be in the work area during loading and unloading. (1) Guylines must be used with any logging equipment when required by the equipment manufacturer.

(2) At least the minimum number and angle of guylines recommended by the equipment manufacturer must be used.

(3) Unless otherwise specified by the equipment manufacturer, guylines must be of the following sizes:

(a) In highlead logging, the head spar guylines must be equal in breaking strength to the mainline.

(b) In skyline logging, if the skyline is one and three-eighths inch or greater, the head spar guylines must be at least one and three-eighths inch. If the skyline is less than one and three-eighths inch, the head spar guylines must be equal in breaking strength to the skyline.

(c) On all other cable logging machines, the guylines must have a breaking strength at least equal to the mainline/skyline, whichever is largest.

(d) Tail/lift and intermediate support trees must be adequately guyed to withstand any stress to which the tree may be subjected.

(4) When guylines are required for spars they must be positioned according to Table 4: Guyline Positioning, or according to the manufacturer's specifications.

Table 4: Guyline Positioning

Number of Guys on Spar	Number of Guys Sharing Load	Positioning Figure Number
1	1	4 - 1 Guyline Case
2	2	5 - 2 Guyline Case
3	3*	6 - 3 Guyline Case
	2	7 - 3 Guyline Case (2)
4	2	8 - 4 Guyline Case
5	2	9 - 5 Guyline Case
	3	10 - 5 Guyline Case (2)
6	2	11 - 6 Guyline Case
	3	12 - 6 Guyline Case (2)
7	3	13 - 7 Guyline Case
8	2	14 - 8 Guyline Case
	4	15 - 8 Guyline Case (2)

\* For metal spars designed to operate without snap guy

(5)(a) Guylines supporting metal spars must be made of plow steel or better material and must be maintained in good condition.

PERMANENT

(b) Guylines for tail/lift and intermediate support trees may be made of synthetic material and must be used according to the manufacturer's recommendations.

(6) Load bearing guyline angles must be no greater than fifty degrees measured horizontally (See Figure 18: Maximum Angle for Load Bearing Guylines and Skyline). If suitable anchors are unavailable or the terrain is so steep that the guyline angle exceeds fifty degrees, an additional guyline must be rigged to oppose the load.

(7) Guylines must be kept securely tightened while the spar, tree, equipment or rigging they support is in use.

(8) Power driven devices must be securely anchored when used to tighten guylines. Holding such devices is prohibited.

(9) All trees that interfere with proper alignment, placement, or tightening of guylines must be fell.

(10) Guylines must be hung in a manner to prevent a excessive bight or fouling when they are tightened.

(11) The use of loops or molles for attaching guylines is prohibited.

(12) The U part of shackles or sleeves must be around the guyline and the pin passed through the eye of the guyline.

(13) Splicing of guylines is prohibited except to make an eye splice.

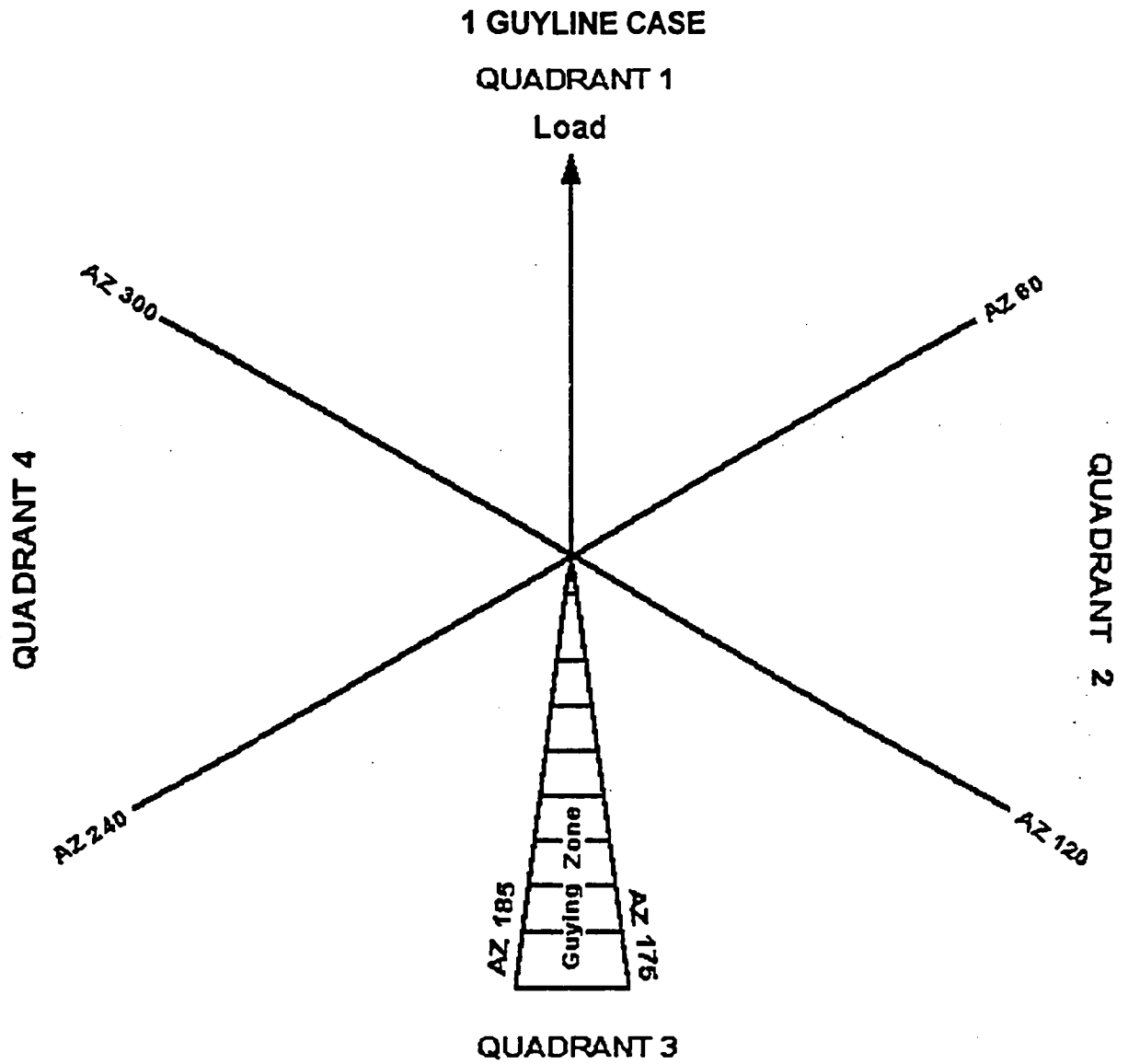
(14) All spliced guyline eyes must be tucked at least three times.

(15) Extensions to guylines must be:

(a) Equal in breaking strength to the guyline to which they are attached; and

(b) Connected only by a shackle connecting two spliced eyes, pressed eyes or by double-end hooks. Connections must have at least one and one-half times the strength of the guyline.

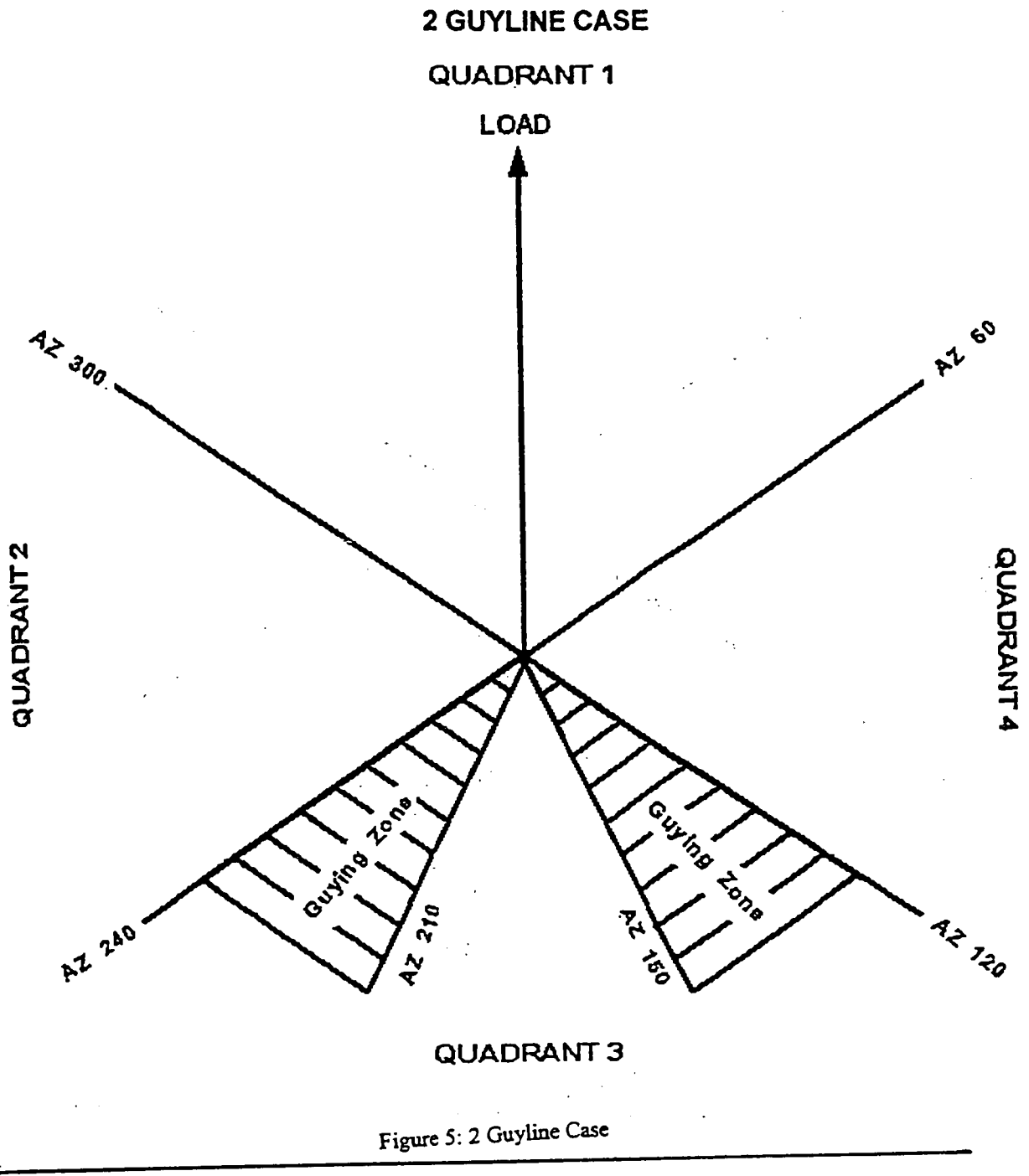
(16) When hanging a block or jack on a guyline, only sleeve-type safety pin shackles must be used. The shackle sleeve shall have not less than two and one-half times the line diameter bearing on the guyline.



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Figure 4: 1 Guyline Case

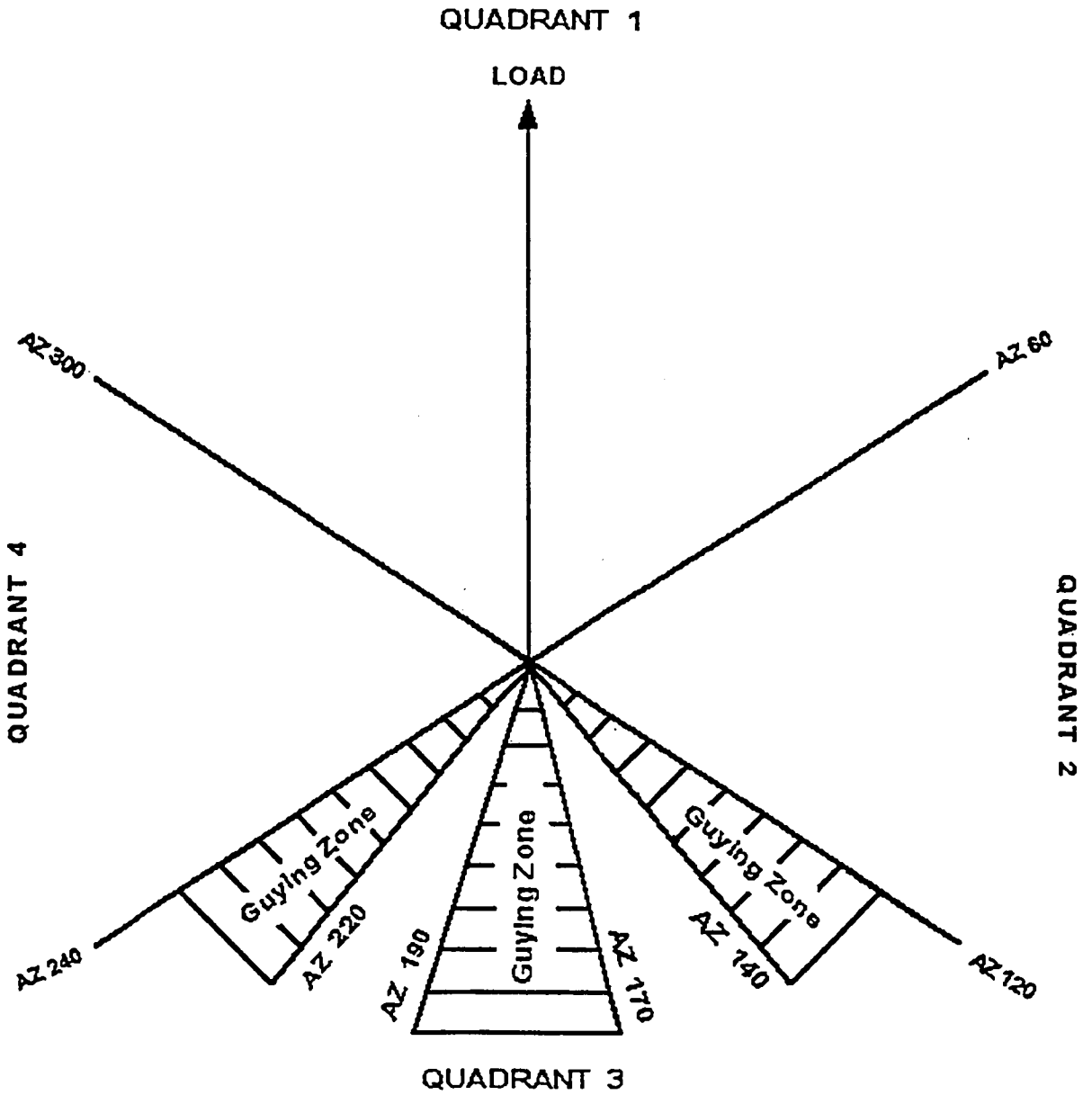




PERMANENT

Figure 5: 2 Guyline Case

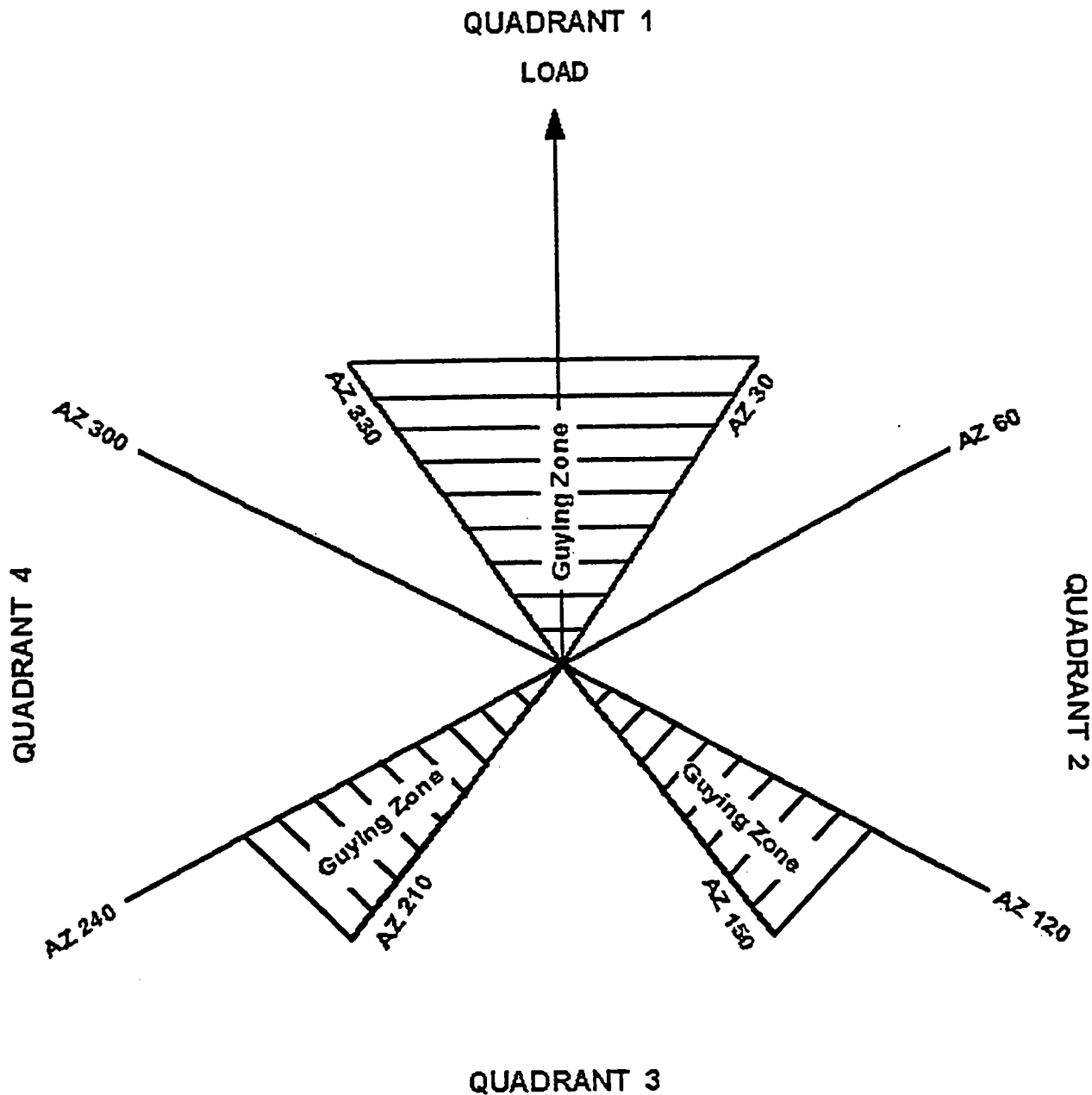
### 3 GUYLINE CASE



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Figure 6: 3 Guyline Case

### 3 GUYLINE CASE



PERMANENT

Figure 7: 3 Guyline Case (2)

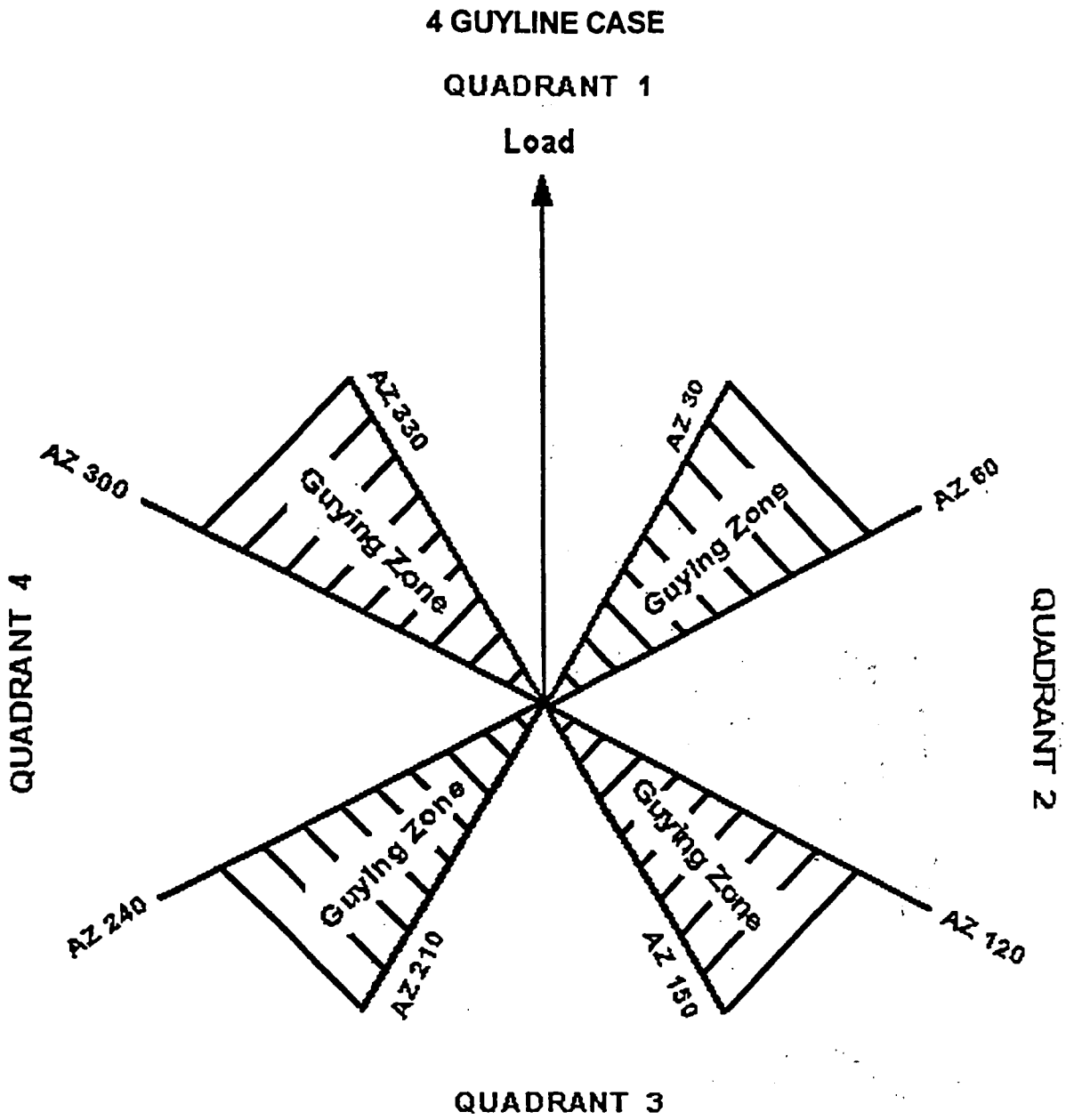


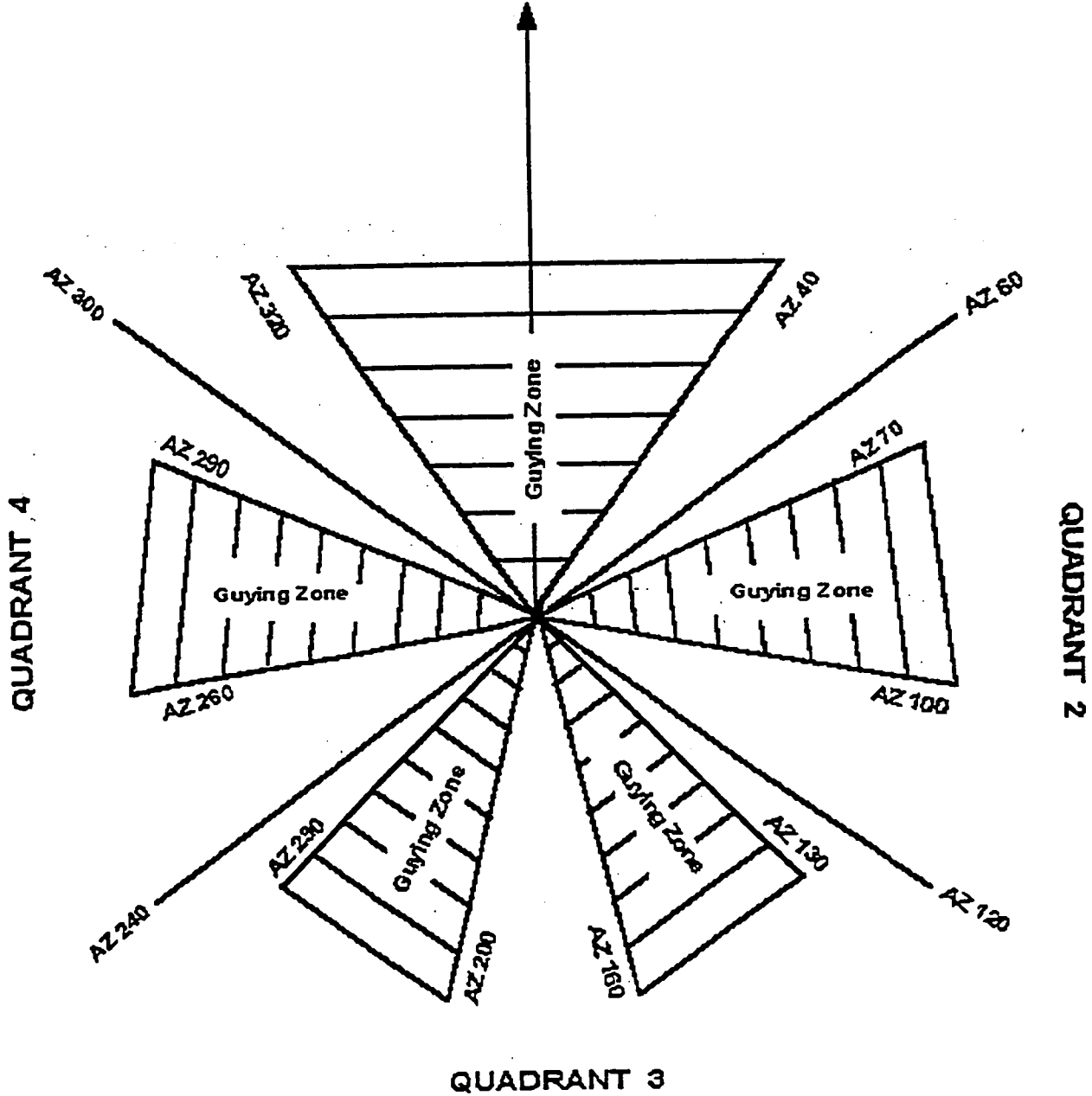
Figure 8: 4 Guyline Case

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### 5 GUYLINE CASE

#### QUADRANT 1

Load



PERMANENT

Figure 9: 5 Guyline Case

### 5 GUYLINE CASE

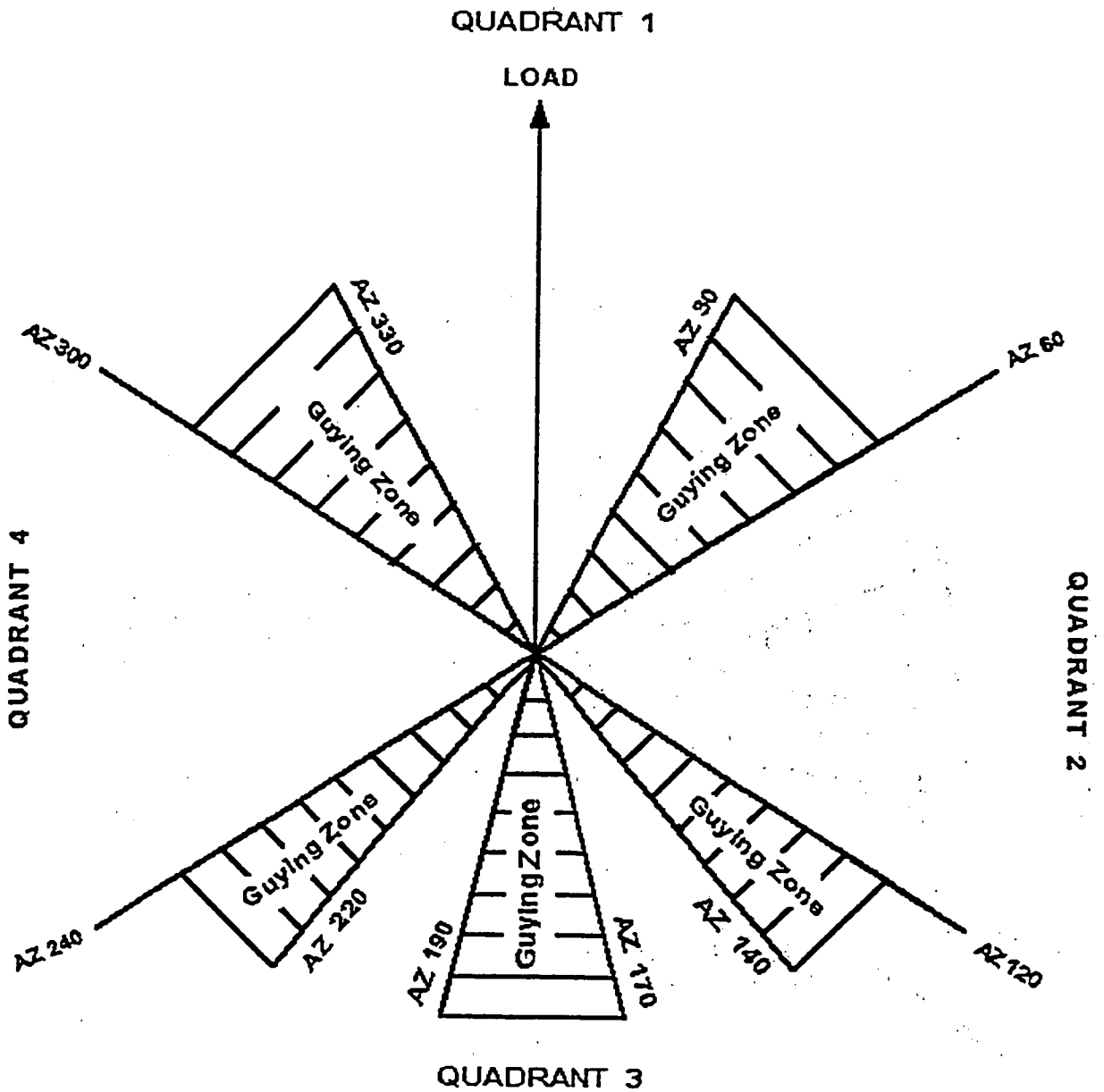


Figure 10: 5 Guyline Case (2)

PERMANENT

### 6 GUYLINE CASE

#### QUADRANT 1

Load



AZ 0

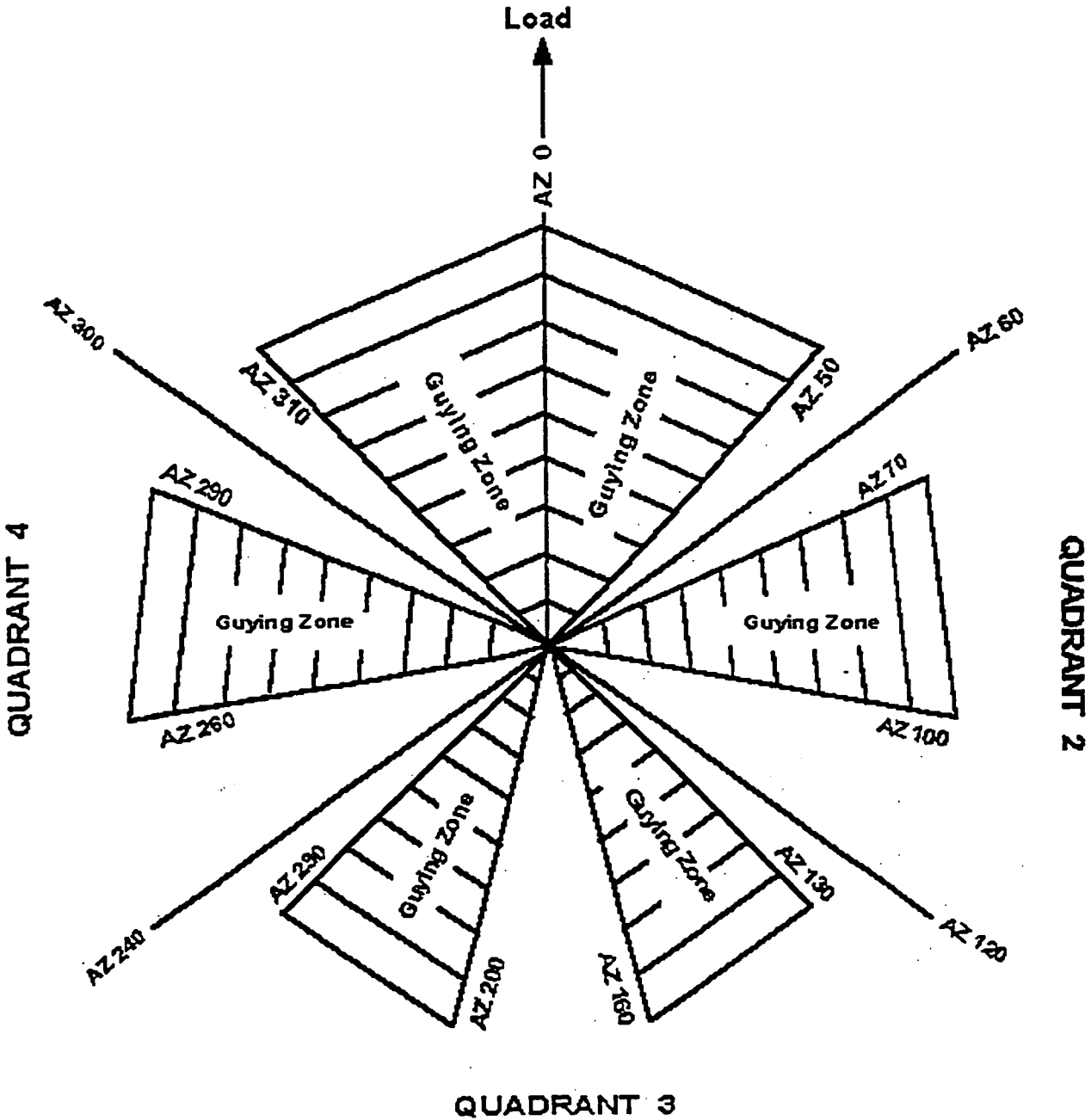


Figure 11: 6 Guyline Case

PERMANENT

### 6 GUYLINE CASE

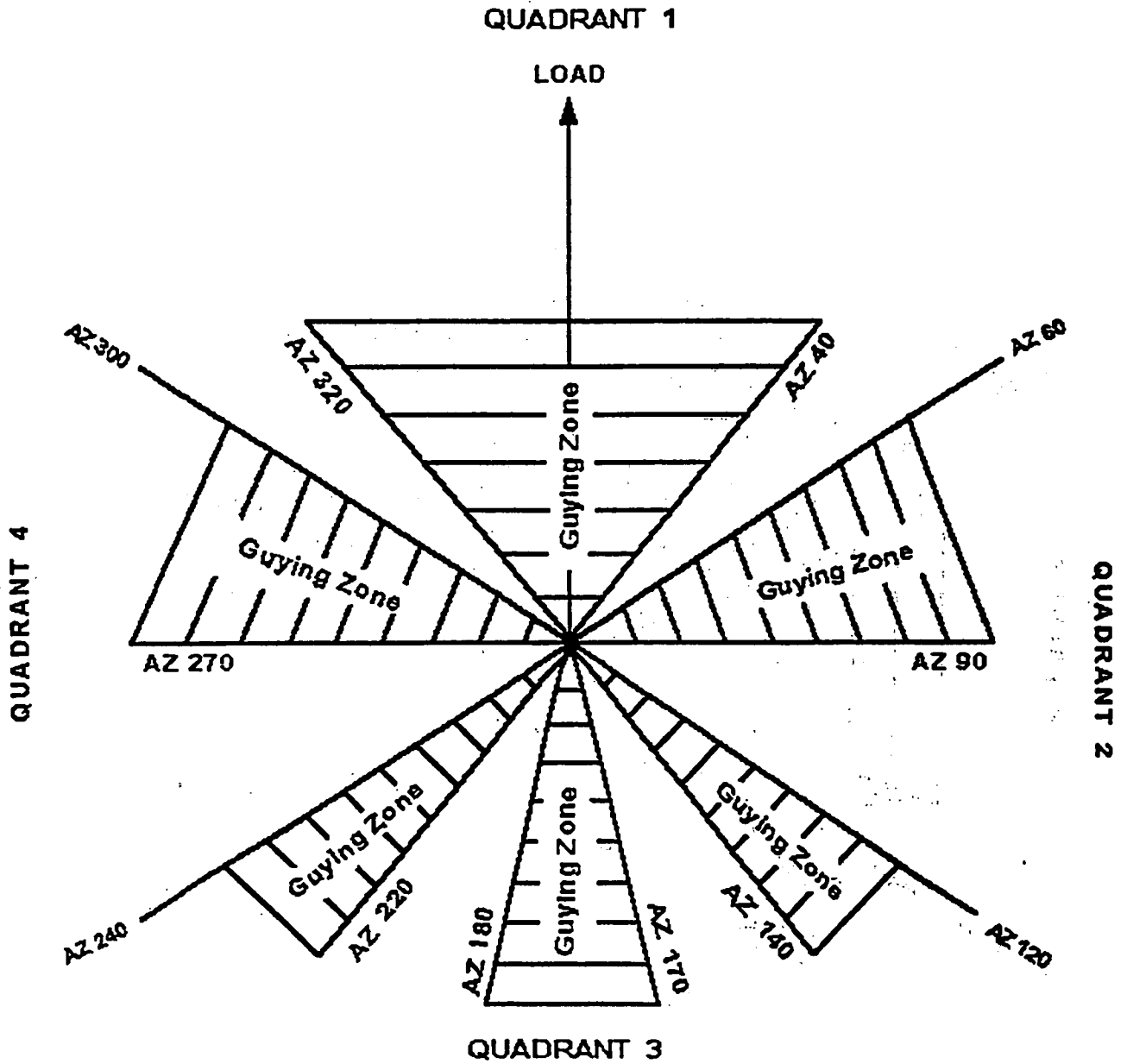


Figure 12: 6 Guyline Case (2)



### 7 GUYLINE CASE

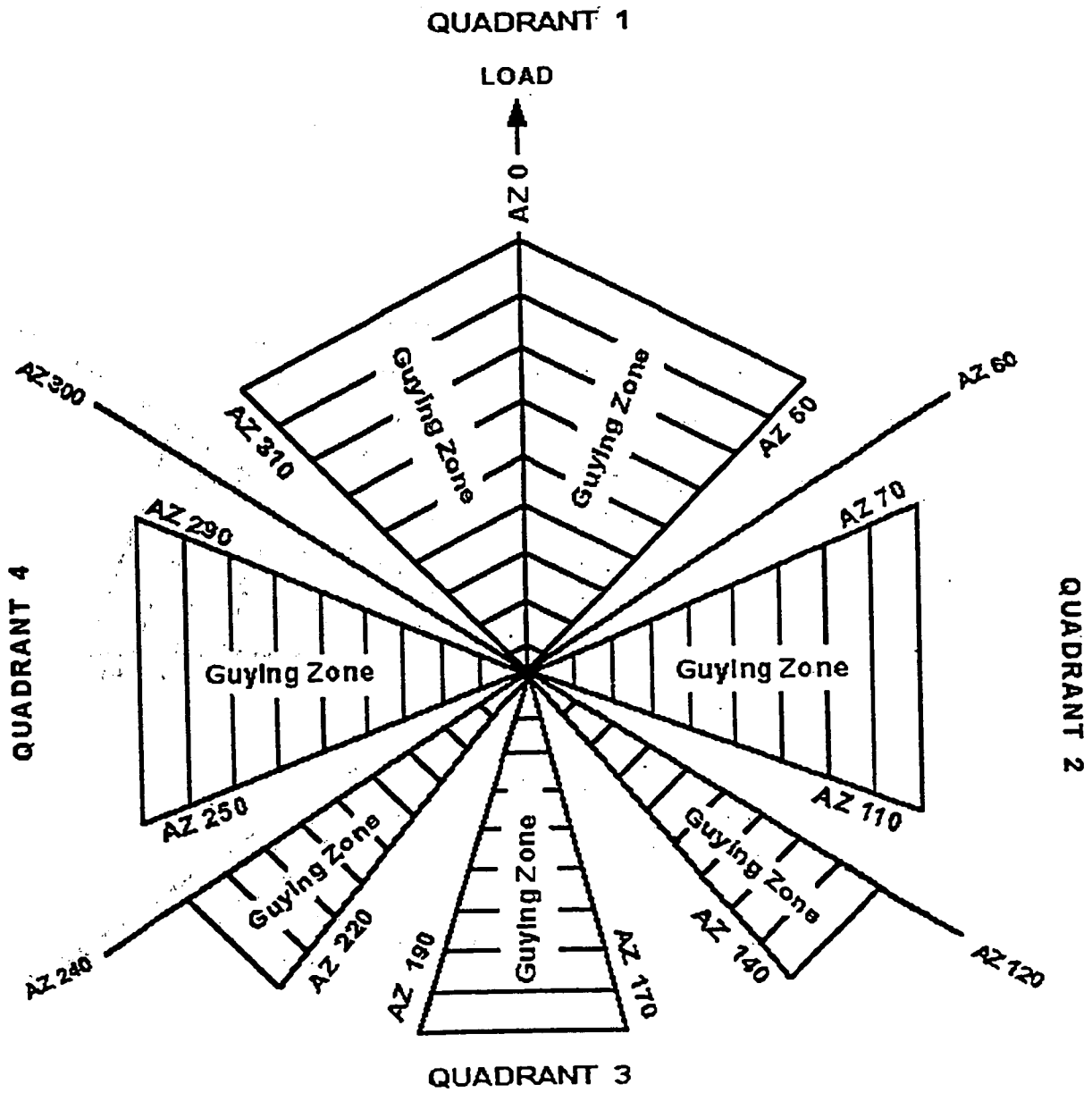


Figure 13: 7 Guyline Case

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### 8 GUYLINE CASE

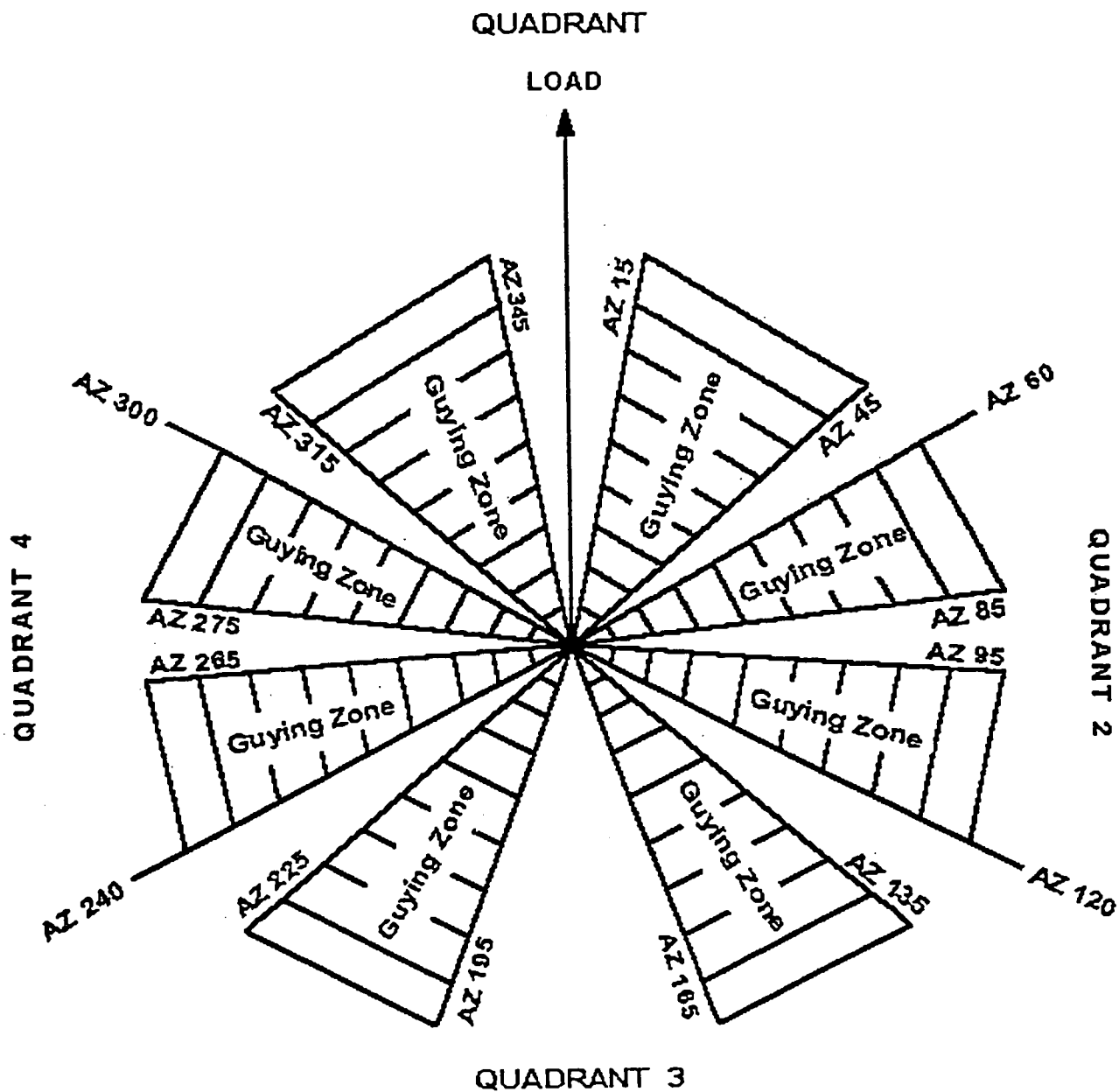


Figure 14: 8 Guyline Case

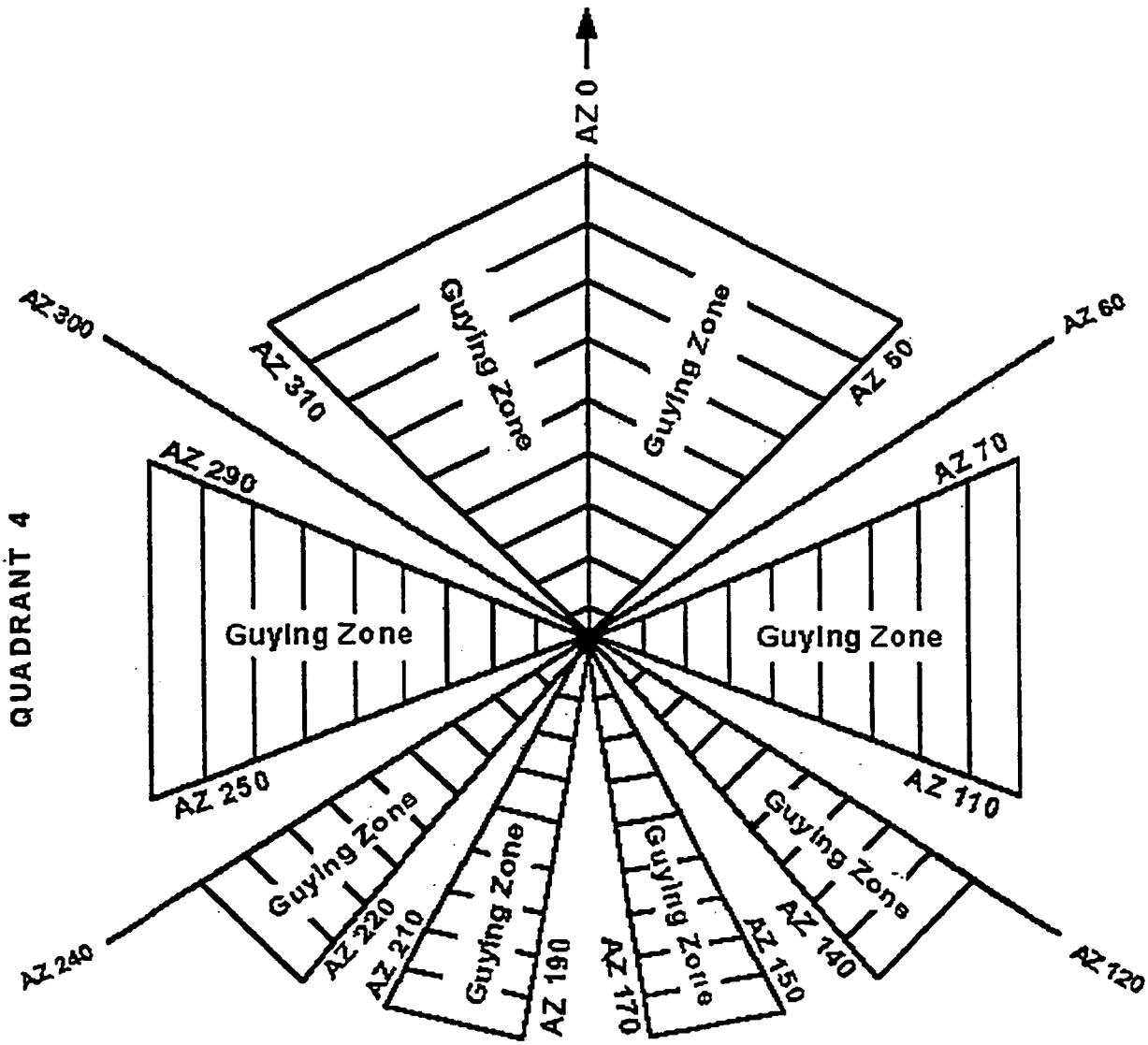
### 8 GUYLINE CASE

QUADRANT 1

LOAD



AZ 0



QUADRANT 3

Figure 15: 8 Guyline Case (2)

### POSITIONING GUYLINES IN BACK OF TREE

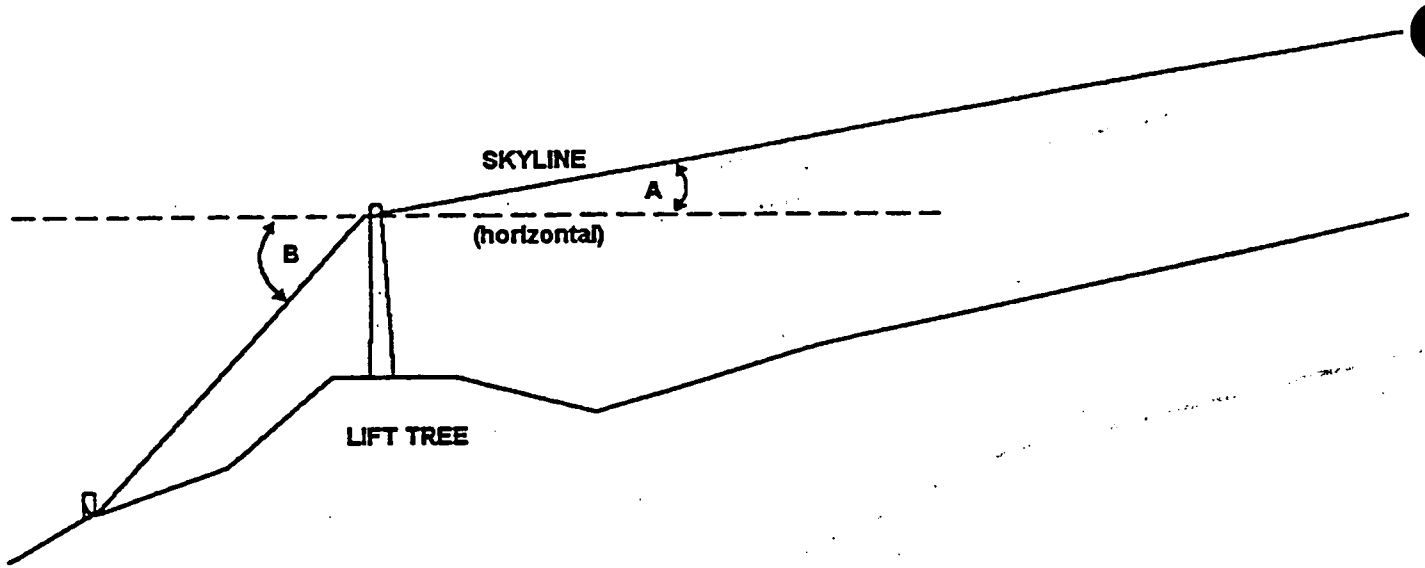


Figure 16: Positioning Guylines in Back of Tree

### POSITIONING GUYLINES IN FRONT OF TREE

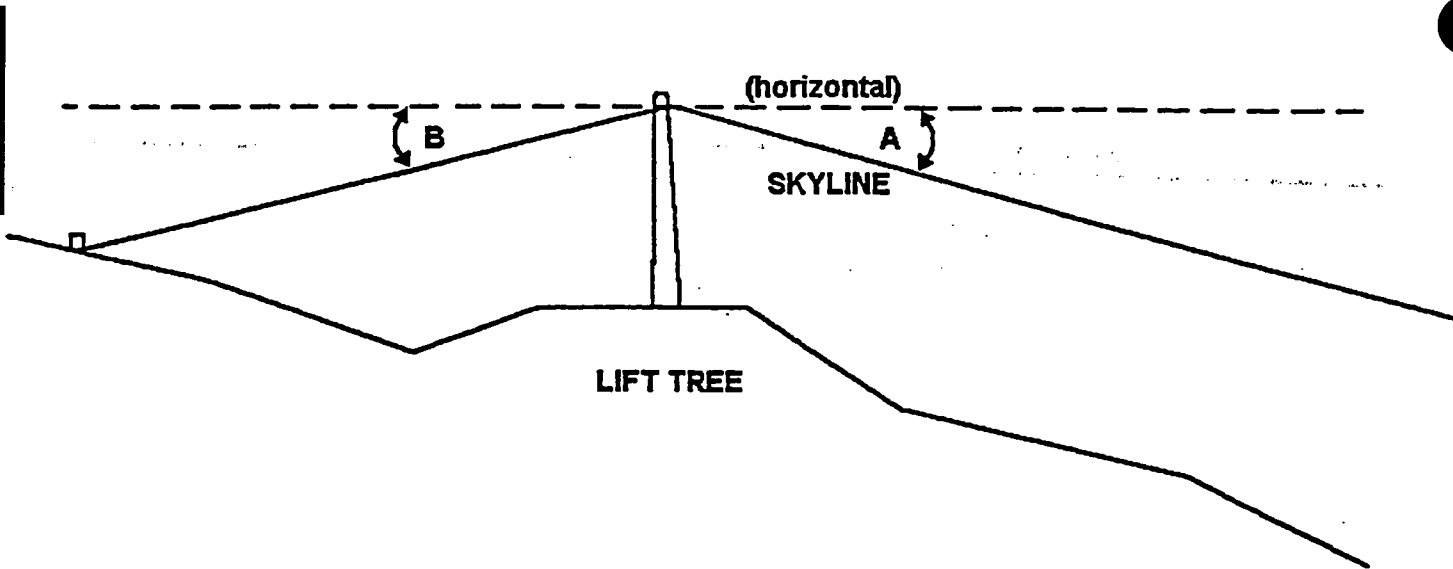


Figure 17: Positioning Guylines in Front of Tree

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# MAXIMUM ANGLE FOR LOAD BEARING GUYLINES AND SKYLINE

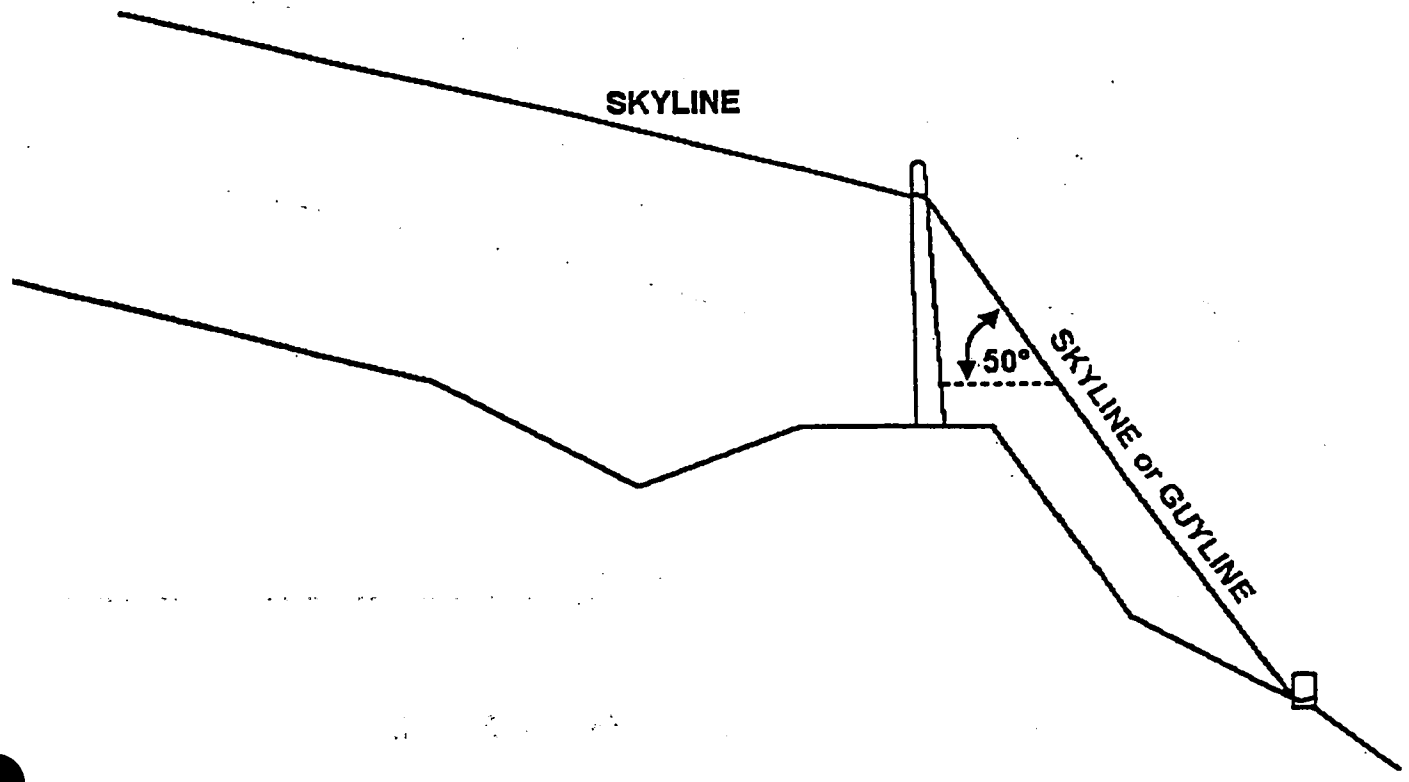
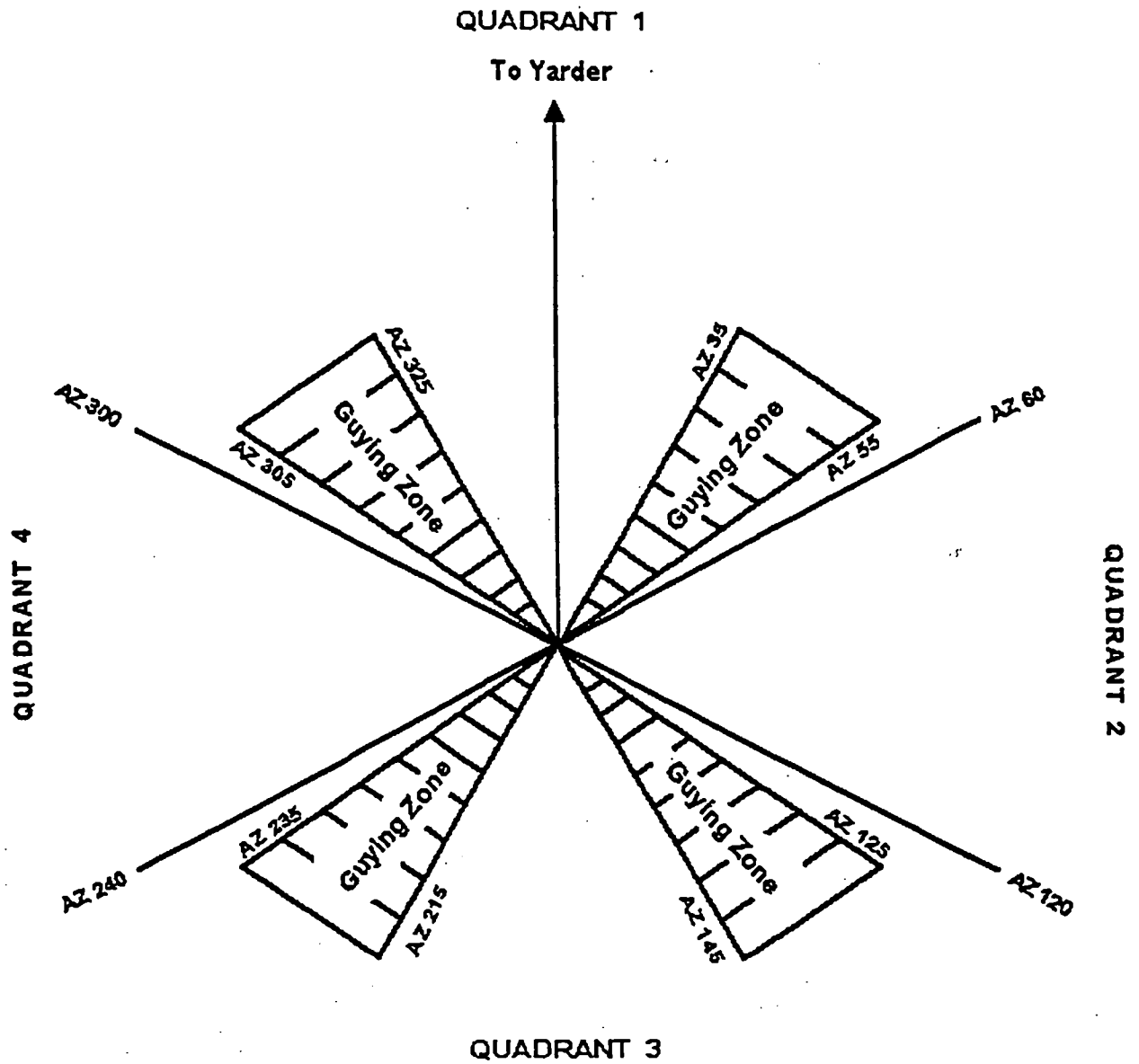


Figure 18: Maximum Angle for Load Bearing Guylines and Skyline

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### 4 GUYLINE CASE – TAIL/LIFT TREE GUYING



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Figure 19: 4 Guyline Case – Tail/Lift Tree Guying

## 2 GUYLINE CASE

### TAIL/LIFT TREE GUYING

(gravity outhaul, non-slackpulling carriage)

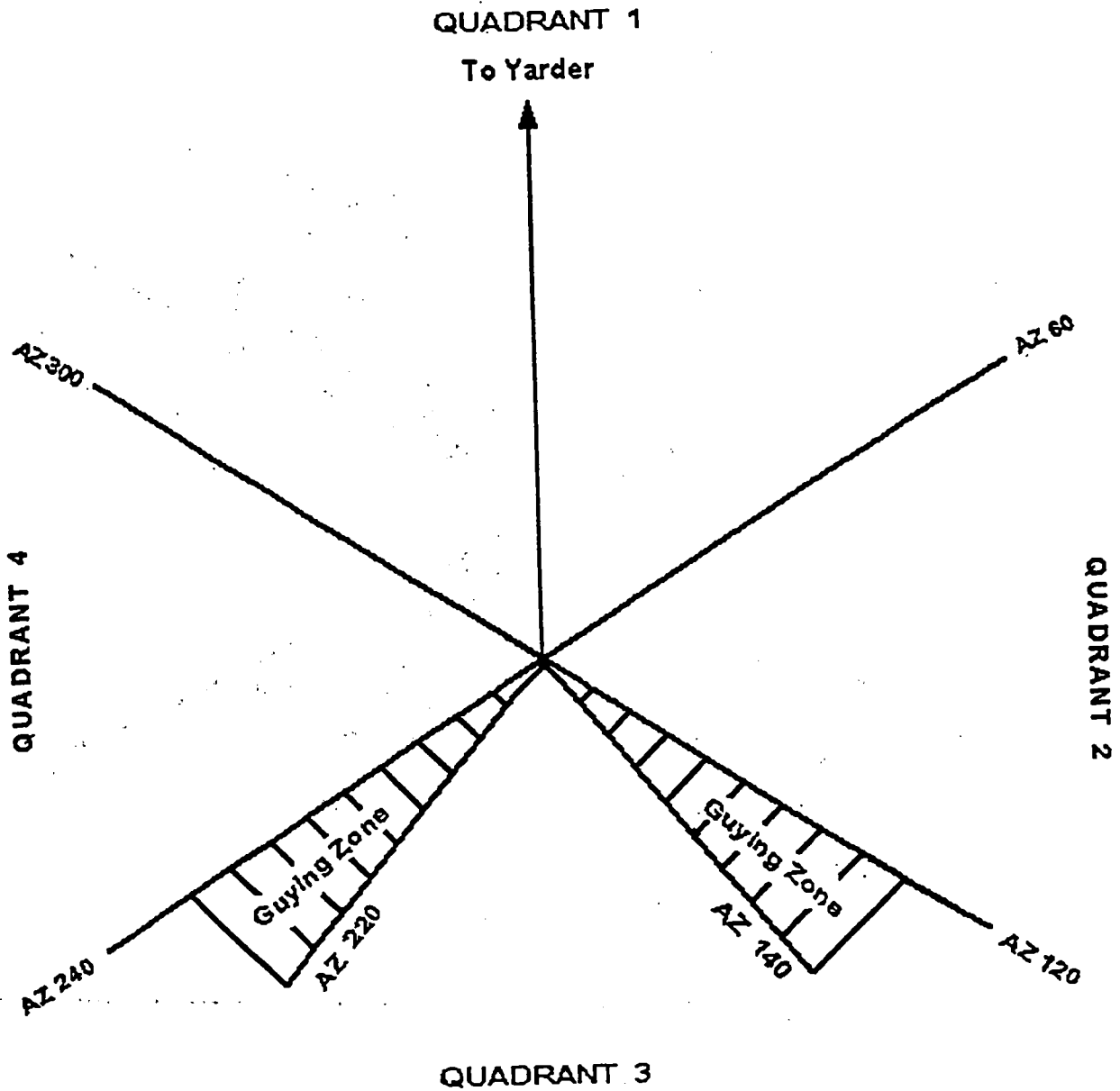


Figure 20: 2 Guyline Case – Tail/Lift Tree Gying  
(gravity outhaul, non-slackpulling carriage)

AMENDATORY SECTION (Amending Order 80-15, filed 8/20/80)

WAC 296-54-563 (~~Log loading—Special requirements~~.) Guying tail/lift trees. ~~((1)(a) Loading machines shall be equipped with an effective parking braking system which is not dependent on the air or hydraulic pressure which is used to stop the machine while traveling.~~

(b) ~~A braking system shall be installed on the load line and boom supporting equipment which shall be capable of stopping and holding, in any position, the maximum load for which the loading machine is designed. The equipment shall be of such design as to lower the boom with power. Booms not having power down shall be dogged before workers enter the hazardous area around the boom. Workers shall not be under any boom while it is being held by the brake.~~

(2) ~~A minimum distance of thirty six inch clearance shall be maintained between the counterweight of a loading machine and trees, logs, banks, trucks, etc., while the machine is in operation. If this clearance cannot be maintained, suitable barricades with warning signs attached, similar to a standard guardrail, shall be installed to isolate the hazardous area. "DANGER—36 inch clearance" shall be marked in contrasting colors on sides and face of counterweight on shovels, loaders and other swing type logging equipment.~~

(3) ~~Persons shall not work under a slack puller. A warning line, of sufficient length to reach the ground at all positions, shall be hung from any slack puller.~~

(4) ~~Where a backstop of a loading machine is so constructed that it could crush the operator's cab should the heel boom be pulled or pushed too far backward, positive boom stops shall be installed.~~

(5) ~~All mobile fork lift type log handling machines shall be equipped with a means or mechanism to prevent the logs from leaving or rolling off the forks, and shall be used at all times while moving logs.~~ (1) Whenever a tail/lift tree is within reach of the work area and the rigging is placed on the tail/lift tree at a height greater than five times the tree diameter (dbh), at least two guylines must be used unless tree size and strength and rigging position eliminate the need for guylines or employees must be in the clear before the go-ahead signal is given.

(2) Guylines on tail/lift trees must not be anchored to standing trees unless:

(a) There is no danger that the guyline anchor tree will enter the work area;

(b) The guyline anchor tree is properly tied back; or

(c) Employees are in the clear of the guyline anchor tree(s) before the go-ahead signal is given.

(3) When guylines are required, they must be positioned according to Figure 16: Positioning Guylines in Back of Tree and Figure 19: 4 Guyline Case - Tail/Lift Tree Guying as follows:

(a) When the angle between the horizontal and skyline coming into the tree (angle A in Figure 16) is less than the angle between the horizontal and the skyline leaving the tree towards the anchor point (angle B in Figure 16), the guylines must be in back of the tail/lift tree as specified in Figure 19.

(b) If angle A is greater than angle B, then the guys must be placed in front of the tail/lift tree. This situation usually

occurs when a tail/lift tree is used during downhill yarding as shown below. Placing the guys on the uphill side only helps to pull the tail/lift tree over uphill.

(c) If a suitable anchor is not available within a specified shaded zone, two guylines may be used instead of one guyline, provided a guyline is placed on either side of and as near as possible to the affected shaded zone.

(4) Tail/lift trees must be supported by additional guylines if necessary, to ensure the stability of the tree.

(5) Guylines for tail/lift trees may be made of synthetic material and must be used according to the manufacturer's recommendation.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

WAC 296-54-565 (~~Log loading—Self-loading log trucks~~.) Intermediate support trees. ~~((1) A safe means of access and egress shall be provided to the operator's loading work station.~~

(2) ~~Self-loading log truck operators shall not unload their own load unless a positive means of securing the logs has been provided when binders and wrappers are removed.~~

(3) ~~New self-loading log trucks purchased and put in operation after January 1, 1980, shall be equipped with:~~

(a) ~~A check valve installed on the jib boom; and~~

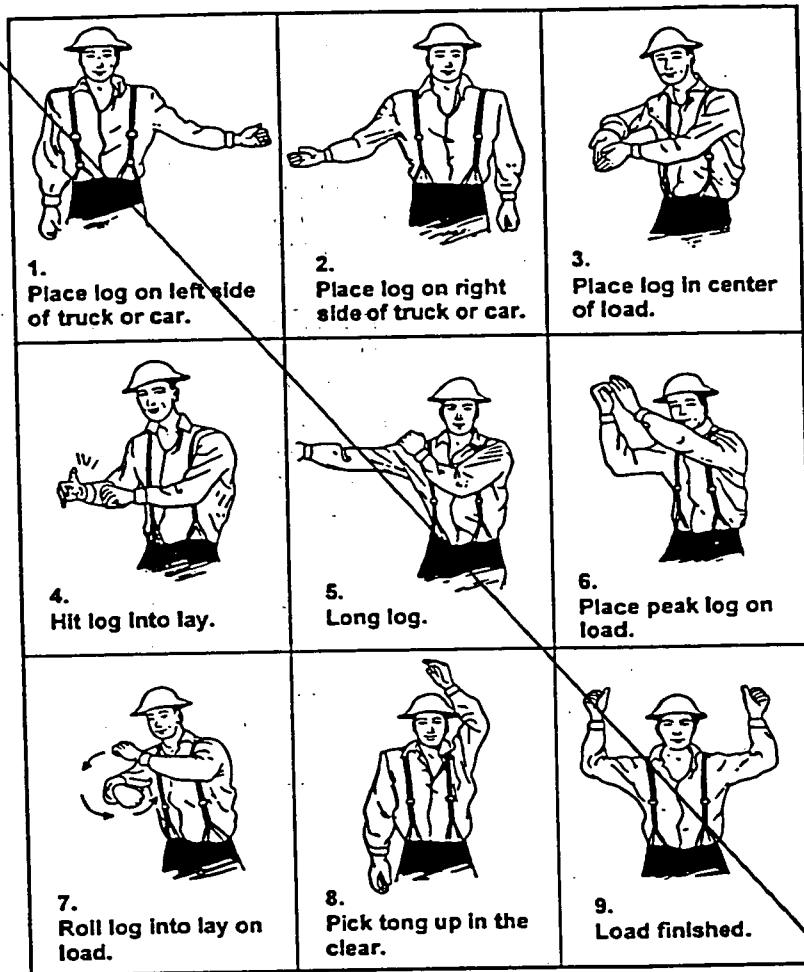
(b) ~~A seat that is offset from the point of attachment of the boom. The seat and boom structure shall rotate concurrently.~~

(4) ~~The operator of a self-loading log truck shall not heel the log over the operator's work station.~~



STANDARD SIGNALS FOR LOADING LOGS

STANDARD SIGNALS FOR LOADING LOGS



PERMANENT

(1) Trees used as intermediate supports must be sound and straight from the ground to the point of strap attachment; and must be rigged so that:

(a) Carriage clearance, as measured at the base of the support tree(s) is approximately five feet.

(b) The jackline/support line (see Figure 21: Critical Measurements of the Double Tree Intermediate Support System) is a single piece of line that is one-eighth inch larger than the tong or skidding line or rigged to provide a strength equal to a line one-eighth inch larger than the tong or skidding line.

(2) Vertical support trees must be firmly rooted.

(3) The base of all leaning tree supports must be prevented from moving by:

(a) Retaining twenty percent of the stump diameter in holding wood; or

(b) Other suitable rigging arrangements.

(4) Double tree supports must be rigged so that (see Figure 22: Double Tree Intermediate Support System):

(a) The minimum and maximum heights of the jack relative to the height of the block are as shown below:

(b) The angle the block line makes with the center line of the support tree is as follows:

(i) For skylines one and one-eighth inch and smaller, ten degrees in any direction; and

(ii) For skylines larger than one and one-eighth inch, deflection of the block is in the direction of the jack and a maximum of ten degrees.

(c) The loaded support tree does not displace more than two feet at the point of rigging attachment.

(5) Intermediate support trees must be adequately guyed to withstand any stress to which the tree may be subjected.

(6) Single tree supports must be guyed as follows:

(a) For skylines one and one-eighth inch and less, as shown in Figure 4; and

(b) For skylines larger than one and one-eighth inch, as shown in Figure 6.

(7) Double tree supports must be guyed as follows:

(a) For skylines one and one-eighth inch and less, no guys are required;

(b) For skylines larger than one and one-eighth inch, as shown in Figure 4.

(8) Guylines for intermediate support trees may be made of synthetic material and must be used according to the manufacturer's recommendations.

### CRITICAL MEASUREMENTS OF THE DOUBLE TREE INTERMEDIATE SUPPORT SYSTEM

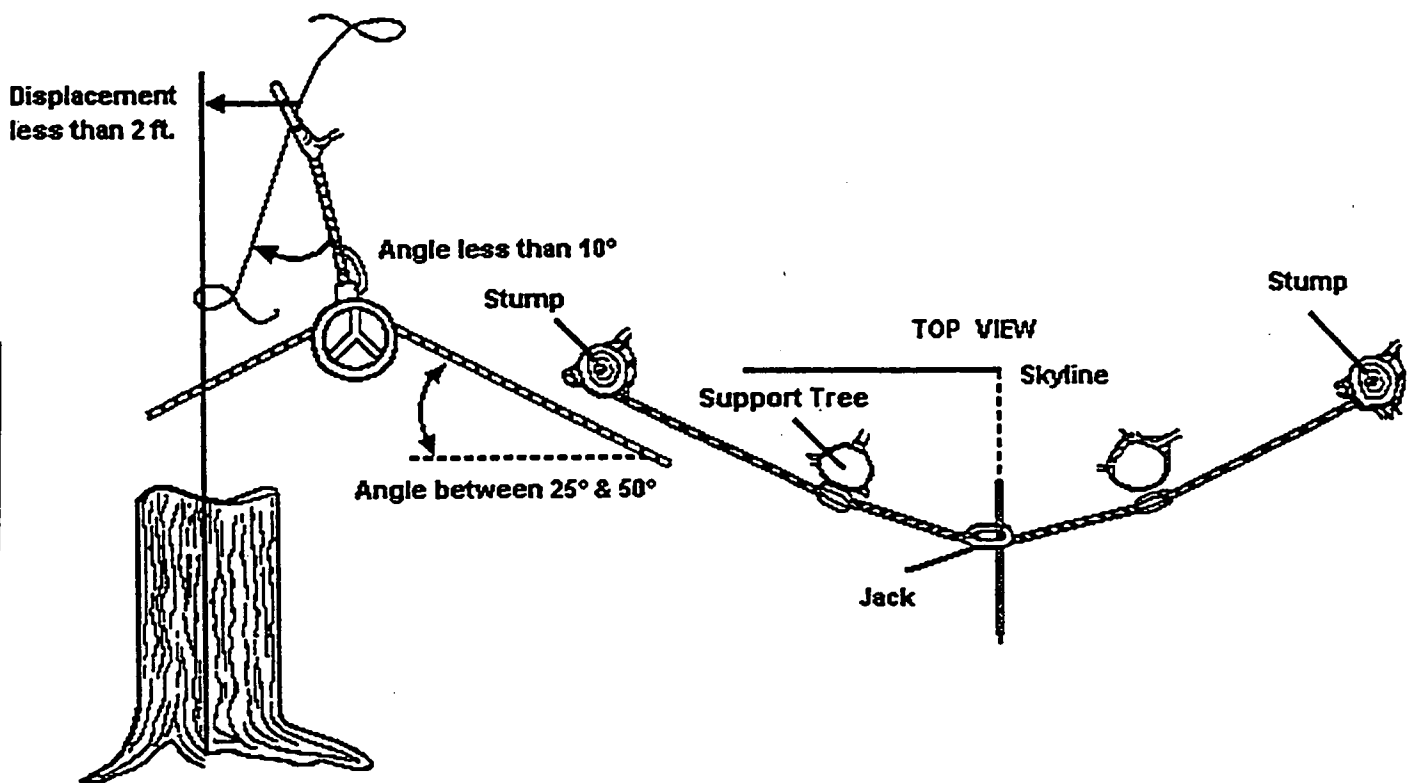
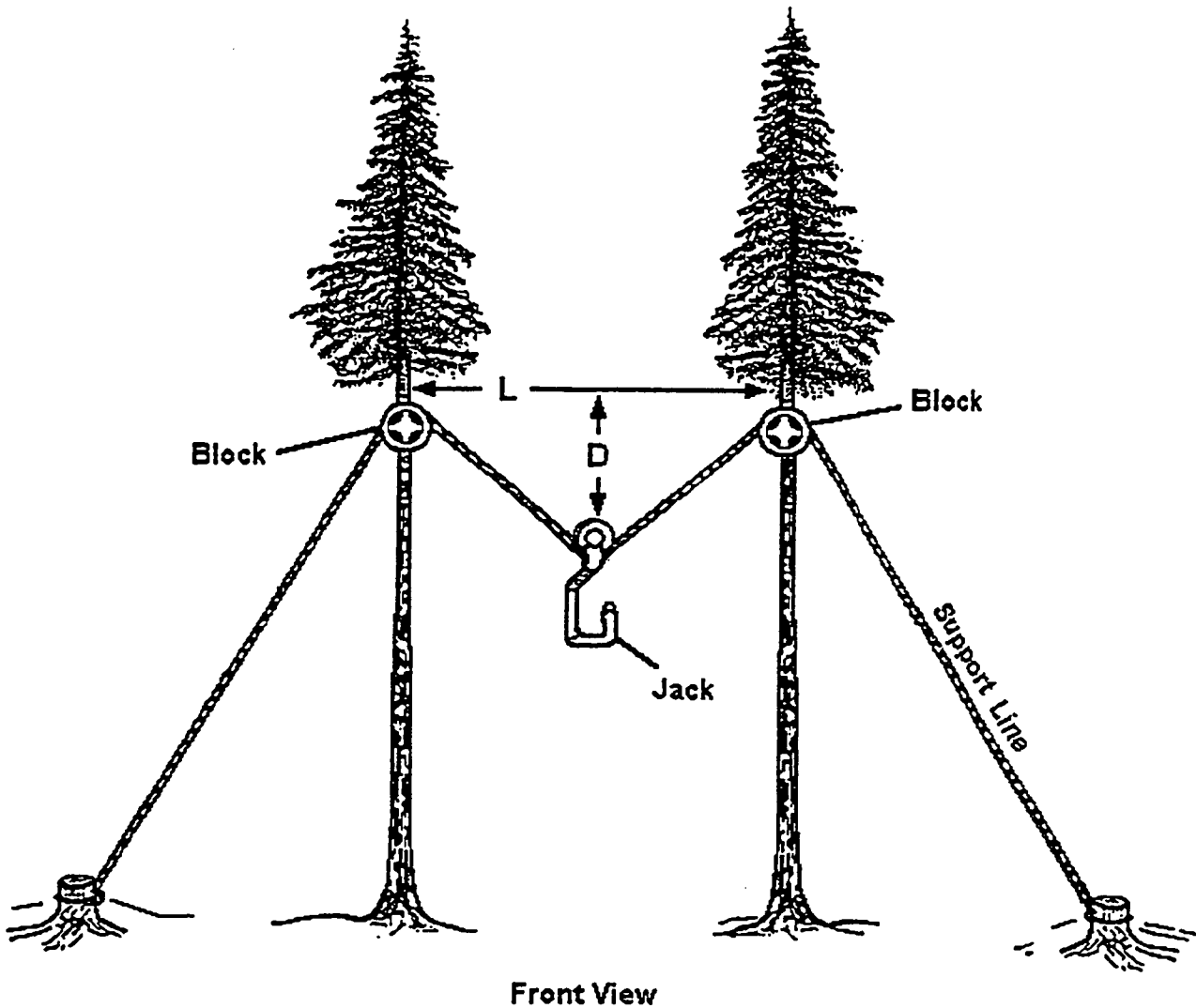


Figure 21: Critical Measurements of the Double Tree Intermediate Support System

PERMANENT

### DOUBLE TREE INTERMEDIATE SUPPORT SYSTEM



$$D = .25 \times L = \text{minimum distance}$$

$$D = .5 \times L = \text{maximum distance}$$

Figure 22: Double Tree Intermediate Support System

PERMANENT

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-567 ((Motor truck log transportation—General requirements.)) Rigging skylines.** ((1) Prior to use, the operator shall make a complete daily inspection of the truck and trailer with particular attention to steering apparatus, lights and reflectors, brake boosters, brake hoses and connections, reaches, and hitches (couplings). The brakes shall be tested before and after movement of the vehicle. The operator shall submit a written list of necessary repairs to a person designated by the employer.

(2) Any defective parts that would make the vehicle unsafe to operate, shall be replaced or repaired before the vehicle is placed in service.

(3) All motor vehicles operated on public roads shall comply with the rules of the regulatory body having jurisdiction. Motor vehicles used on roads not under the control of the state department of transportation, counties or cities shall be equipped with accessories necessary for a safe operation including operable head lamps and at least two tail lamps and brake lamps which shall emit a red light plainly visible from a distance of one thousand feet to the rear and shall also have two reflectors visible at night from three hundred fifty feet when directly in front of properly adjusted motor vehicle head lamps.

(4) Truck tires worn beyond a point of safety or not meeting the safety requirements of the jurisdiction having authority as to tread wear and tire conditions, shall not be used.

(5) The driver shall do everything reasonably possible to keep the truck under control at all times and shall not operate in excess of a speed at which the driver can stop the truck in one half the distance between the range of unobstructed vision.

(6) The area between the truck frame members, extending from the cab rearward as far as necessary to provide a safe work area, shall be covered with suitable nonslip type material. Log trucks which have logs sealed at stations shall be provided with a platform on each side extending outward from the frame members at least eighteen inches, and shall be eighteen inches long or as near this dimension as the design of the truck will permit. The treading surface of the platforms shall be of nonslip type material and the platform shall be capable of safely supporting a five hundred pound load.

(7) To protect the operator of vehicles from loads, a substantial bulkhead shall be provided behind the cab which shall extend up to the height of the cab.

(8) If logs must be sealed or branded while the loading operation is being carried on, the loading operation shall cease while the sealing or branding is being done so that the sealer or person doing the branding is not subjected to any hazards created by the loading operation.

(9) When at the dump or reload or where logs are sealed or branded on the truck, the logs shall be sealed or branded before the binders are released.

(10) All vehicles, where vision of the operator in the direction of travel is impaired by the load or vehicle, shall be moved only on a signal from a worker who shall have a clear view in the direction in which the vehicle is to be moved.

(11) Where a bridge or other roadway structure is posted with a load limit sign, log truck drivers or operators of other heavy equipment are prohibited from driving a load in excess of the posted limit over such structure.

(12) Persons shall be allowed to ride only when in the cab of the log truck.

(13) All trucks shall keep to the right side of the road except where the road is plainly and adequately posted for left side travel.

(14) A method shall be provided to assure that the trailer will remain mounted on the truck while driving on highways or logging roads.

(15) When trucks are towed on any road, the person guiding the vehicle being towed shall, by prearranged signals, govern the speed of travel. The towing of vehicles shall be done at a reasonable speed and in a prudent manner. A tow cable or chain over fifteen feet in length shall have a white flag affixed at the approximate center, however, it is recommended that a rigid tow bar be used for this purpose.

(16) All air lines, air chambers and systems shall be free of leaks and be able to maintain air pressure on constant brake application with the motor shut off for one minute, or air pressure does not drop more than 4 p.s.i. in one minute with the engine running at idling speed and the service brake applied.

(17) All rubber tired motor vehicles shall be equipped with fenders. Mud flaps may be used in lieu of fenders whenever the motor vehicle is not designed for fenders.

(18) Seat belts and anchorages meeting the requirements of 49 CFR Part 571 (D.O.T. Federal Motor Vehicle Safety Standards) shall be installed and used in all motor vehicles.

(19) All trucks shall be equipped with doors with operable latches, or a safety bar or strap shall be provided in lieu of the door.

(20) All trucks shall be equipped with a means to protect the operator from inclement weather.

(21) Log trucks shall not approach a landing while there is danger from incoming logs.

(22) Log truck drivers shall stop their vehicle, dismount, check and tighten loose load wrappers and binders, either just before or immediately after leaving a private road to enter a public road. While enroute, the operator shall check and tighten the wrappers/tie downs whenever there is reason to believe that the wrappers/tie downs have loosened or the load has shifted.)) (1) A skyline must not make an angle greater than fifty degrees measured from the horizontal as it leaves the tail/lift tree. (See Figure 18: Maximum Angle for Load Bearing Guylines and Skyline.)

(2) When rigged in a tail/lift tree, the skyline must be anchored no more than eight degrees offline from the rearward projection of the skyline. If a suitable anchor is not available within the specified zone and the tail/lift tree is stable, a more suitable anchor outside the zone may be used. (See Figure 23: Skyline Positioning Limits Tail/Lift Tree.)

(3) A skyline must not be considered a guyline.

(4) Extensions to skylines must be equal in breaking strength to the skyline to which they are attached and must not alter the safe capacity of the tower. In addition, the extension must be attached only by a regular long splice or by a flush pin straight side shackle connecting the two eyes.

Note: See exception in WAC 296-54-553 (4)(e).

(5) Live, running or standing skylines must be anchored by one of the following methods:

(a) Directly to a stump or suitable manufactured anchor;

(b) Directly to the base of a standing tree provided the point of attachment is no more than three feet above the ground and no part of the tree will enter the work area if pulled over;

(i) If the tree will enter a work area, it must be properly tied back; or

(ii) Employee(s) must be in the clear before the go-ahead signal is given.

(c) By passing the skyline through a jack or block hung on a tail/lift tree before being anchored.

(6) Skylines or mainlines must be secured by one of the following methods:

(a) With at least two and one-half wraps, well spiked, or properly clamped (see WAC 296-54-569 (5)(b)); or

(b) Choked by using an approved shackle over the skyline or mainline with the pin through the eye; or

(c) With an approved strap having both eyes hung in a shackle and the knockout pin or safety pin through the eye of the skyline or mainline.

(7) Attaching the end of the skyline or slackline to the base of the rigged tail/lift tree is prohibited.

### SKYLINE POSITIONING LIMITS TAIL/LIFT TREE

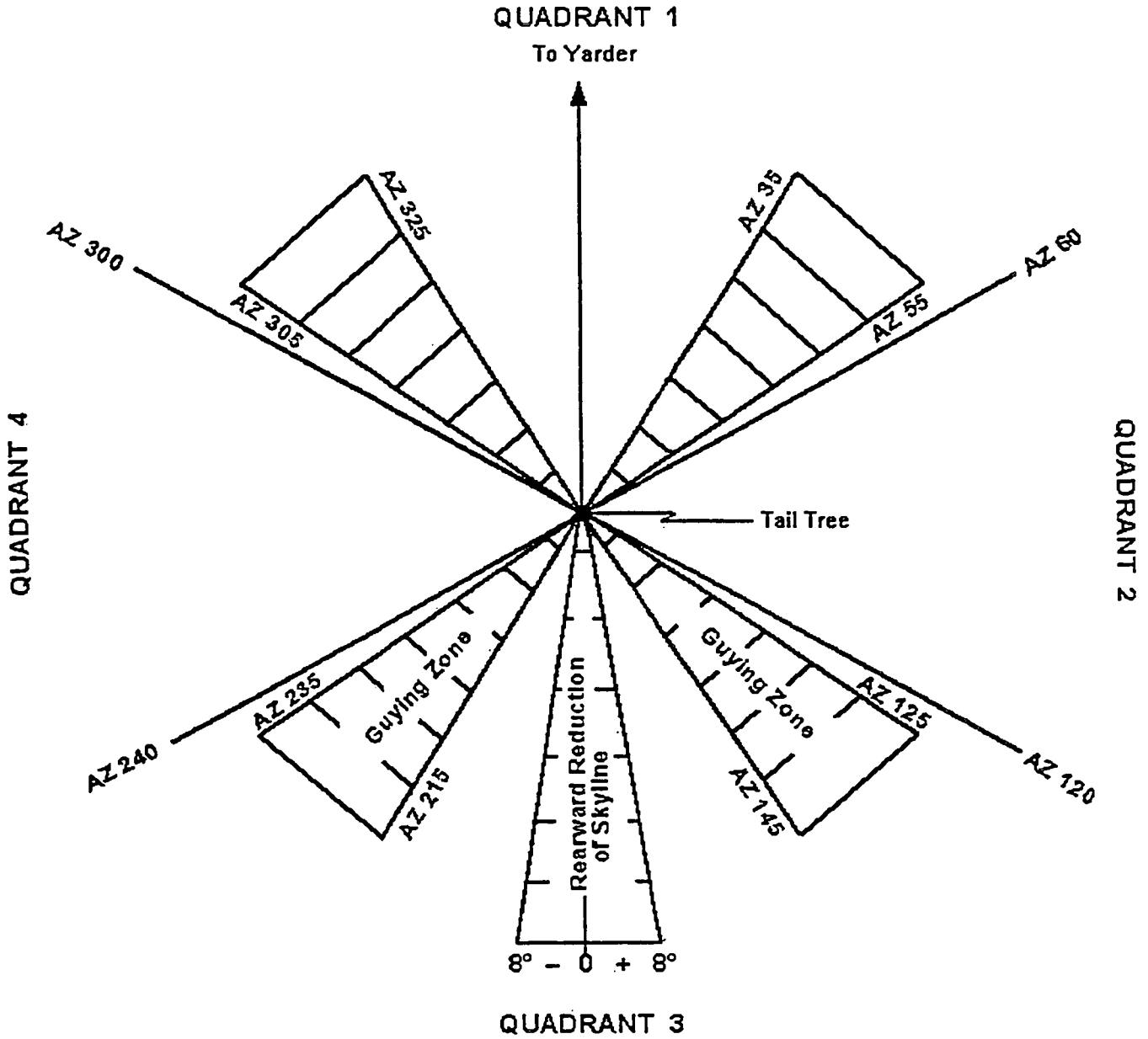


Figure 23: Skyline Positioning Limits Tail/Lift Tree

AMENDATORY SECTION (Amending Order 90-01, filed 4/10/90, effective 5/25/90)

~~WAC 296-54-569 ((Motor truck log transportation—  
Brake requirements.))~~ **Anchoring.** ((1) Motor logging trucks and trailers shall be equipped with brakes or other control methods which will safely stop and hold the maximum load on the maximum grade. When unattended trucks are

~~parked on a grade, in addition to setting the brakes, the wheels shall be chocked or blocked.~~

~~(2) All trucks equipped with air brakes shall be also equipped with a readily visual or audible low air pressure warning device in good working order.~~

~~(3) Engine type brakes shall be considered as auxiliary controls, not a substitute for the requirement for a service brake system.~~

~~(4) Brake drums shall be maintained free of cracks, breaks or defects. Defective brake drums, cans, shoes or air lines shall be immediately repaired or replaced.))~~ (1) Stumps used to anchor guylines and skylines must be carefully chosen for position, height, and strength. When necessary, stump anchors must be tied back to distribute the load.

(2) Stump anchors when spiked must be barked where attachments are to be made.

(3) Stump anchors must be adequately notched to keep the line in place and not adversely affect the stump strength.

(4) Employees must not stand close to the stump or tree or in the bight of lines as the guyline or wraps are being tightened.

(5) When spikes or cable clamps are used, guylines or skylines must be anchored with at least two and one-half wraps around the stumps. Wraps must:

(a) Be well secured with at least eight spikes or six staples in sound wood on the first and last wrap; or

(b) Have the end of the line secured with two wire rope clips on lines up to one inch diameter and three wire rope clips on lines one inch diameter and over.

(6) Properly installed deadman anchors are permitted. Guylines must not be directly attached to deadman anchors. Suitable straps or equally effective means must be used.

(7) Guylines of portable spars, wood spars or towers must not be anchored to standing trees if the unit is used as a head tree, except as specified in subsection (8) of this section.

(8) In special cases such as hanging on foreign ownership or in cable thinning operation where frequent moves make the retrieval of fell guyline trees difficult, the following will apply:

(a) Standing trees within reach of a work area or haul road may be used provided:

(i) They are solid;

(ii) Have a sound undisturbed root system;

(iii) If fell, would be suitable for a guyline stump or tailhold as required in subsection (1) of this section; and

(iv) Are properly tied back to distribute the load; or

(b) Guyline and/or tailhold anchor trees, when located so they will not fall into the work area or haul road, need not be tied back if stable.

Note: Under no circumstances must an employer accept a requirement, or be required to use standing trees to anchor guylines.

(9) Rock bolt anchors must be grouted, installed, tested, and maintained according to the rock bolt manufacturer's recommendations.

(10) Anchors must be regularly inspected while the logging operation is in progress. Insecure or hazardous anchors must be corrected immediately.

(11) Artificial earth anchors must be installed and used according to their design specifications and manufacturer's recommendations.

(12) Mobile equipment may be used to anchor skylines, running lines and guylines, provided the weight of the machine or other methods are used to ensure machine stability for all applied loads.

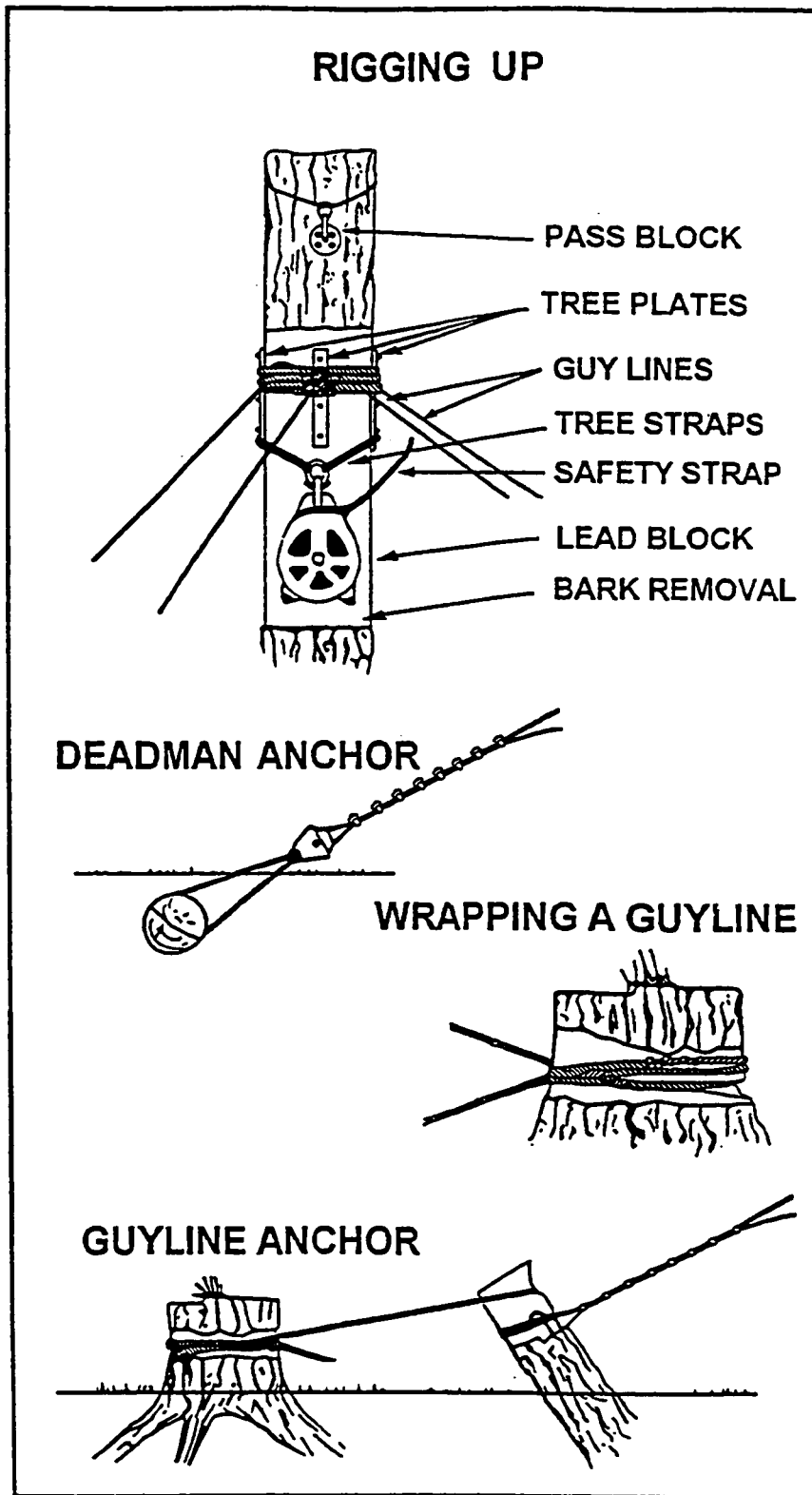


Figure 24: Rigging Illustrations

PERMANENT



AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

~~WAC 296-54-571 ((Motor truck log transportation—Trailer hitches and safety chains.)) **Releasing spiked guylines and spiked skylines from anchors.** (((1) All log truck and trailer combinations shall be equipped with approved hitches (couplings) which shall:~~

~~(a) Be capable of withstanding, in any direction, the potential stresses imposed;~~

~~(b) Be of a design which would not be rendered inoperative by dirt and debris and shall be locked securely and positively;~~

~~(c) Be attached to the truck frame or extension of the truck frame by means of not less than four machine bolts and nuts (120,000 p.s.i. material or better) 3/4-inch diameter or larger, secured by lock nuts. Other means of attachment furnishing strength equal to or greater than the above may be accepted if of approved design and application; and~~

~~(d) Hitches (couplings) or parts that are broken, cracked, excessively worn, or otherwise defective hitches shall be repaired before use.~~

~~(2) Each log truck and trailer combination or log truck and independent trailer combination shall be provided with two or more safety chains or cables with a rated breaking strength of not less than the gross weight of the towed vehicle, be capable of holding the trailer in line in case of failure of the hitch assembly, and be as follows:~~

~~(a) Be permanently attached to the frame of the truck or an extension of the truck frame;~~

~~(b) Form a separate continuous connection between the truck frame or extension of the truck frame and the reach or trailer;~~

~~(c) Be attached not more than twelve inches from the eye of the reach or trailer;~~

~~(d) Be of a length short enough to prevent the trailer reach or tongue from contacting the ground in the event of disengagement from the truck;~~

~~(e) Be of a design to provide a positive connection that cannot be rendered inoperative by any condition of use or exposure.~~

~~(3) Safety chains and cables shall be replaced immediately if they contain cut, cracked, or excessively worn links, or frayed, stranded, or otherwise defective wire rope.~~

~~(4) Butt welding of safety chain links to reach truck frame, or extension of truck frame is prohibited.~~

~~(5) Cold shuts may be used in safety chains provided they are welded shut and one size larger than the chain being used.~~

~~(6) There shall be no welding or hole drilling in frames on which the manufacturer recommends this not be done.))~~  
The following procedures must be followed when removing spiked guylines or spiked skylines from stumps:

(1) Reversed safety wrap is put on and secured before loosening the last wrap;

(2) An authorized employee is in charge of loosening guylines or skylines;

(3) The authorized employee uses all precautions and gives warning before releasing lines; and

(4) Safety holdbacks are used when necessary for employee safety.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

~~WAC 296-54-573 ((Motor truck log transportation—Reaches and bunks.)) **Logging machines—General.** (((1) Log trailers shall be connected to tractors by reaches of a size and strength to withstand all normal imposed stresses. Spliced wooden reaches shall not be used. Proper repair of metal reaches by welding will be permitted if done by a qualified welder.~~

~~(2) Hand holds or other facilities shall be installed on trailer tongues or trailer reaches if workers are required to manually assist in coupling them to their tractors or trucks.~~

~~(3) A positive means, other than clamp and in addition to the clamp, shall be installed on the reach of log truck trailers when the trailers are being towed without a load.~~

~~(4) Persons shall never enter the area below a suspended load of logs. At dumps where the load must remain suspended above the bunks until the truck is moved away, and when the trailer is the type with a compensating pin in the reach, a method shall be utilized which will allow the trailer to be towed away from the danger area.~~

~~(5) The reaches of unloaded trailers being towed shall be provided with and use a minimum one-inch pin near the end or an equally effective means to prevent pulling or stripping through the tunnel.~~

~~(6) Reach locks, clamps, or tighteners shall be of the type that will securely lock the reach in the tunnel.~~

~~(7) No reach of less than the maximum size usable in the tunnel of a trailer shall be permitted.~~

~~(8) Alteration of trailer tunnel to permit reduction of reach size is prohibited.~~

~~(9) Every truck or truck and trailer engaged in the transportation of logs loaded lengthwise, shall be equipped with bunks and chock blocks or stakes.~~

~~(10) Log bunks or any part of bunk assembly bent enough to cause bunks to bind, shall be straightened. Bunks shall be sufficiently sharp to prevent logs from slipping. Trip type stakes shall be properly secured and locked in a manner which will prevent them from accidentally tripping or falling.~~

~~(11) All trucks with swivel type bunks shall have bunk locks or an equivalent system of holding the bunks in place while loading logs.~~

~~(12) The bunks or bolsters of any truck or trailer shall be either curved upward or straight. Bunks with ends lower than their centers are prohibited.~~

~~(13) Sufficient clearance between the bunk and bunk rider shall be maintained to prevent bunk binding.~~

~~(14) Trailer bunks shall be provided with a false or tilt bunk. The channel of the bunk shall be kept reasonably free of debris.~~

~~(15) Stakes and stake extensions shall be installed and maintained so that the angle between bunks and stakes (and extensions if used) shall not exceed ninety degrees when loaded.~~

~~(16) Frames, reaches, bunks and running gear of log trucks shall be maintained free of cracks, breaks and defects.~~

If defects are found, they shall be immediately repaired or the part replaced.) (1) All logging machinery must have speed limiting devices, safety stops, or emergency shut down devices or shut off valves, with the controls located so that in the event of an emergency, the prime mover may be shut down from a safe place.

(2) Machine operators must be experienced in operating the equipment they use.

**EXCEPTION:** Inexperienced employees may operate equipment to gain experience while in training but may do so only while working under the immediate supervision of an experienced authorized person.

(3) All machine controls must be marked as to their purpose in the operation of the machine.

(4) The rated capacity of any vehicle transporting a machine must not be exceeded.

(5) Machines must be loaded, secured, and unloaded in a manner that will not create a hazard for any employee.

**Note:** This requirement includes the loading, securing and unloading of a machine on and off a transport vehicle.

(6) The employer must not make any modifications or additions that affect the capacity or safe operation of the equipment without written approval of the manufacturer or a qualified engineer. If modifications or changes are made, the capacity, operation and maintenance instruction plates, tags, or decals, must be changed accordingly. The original safety factor of the equipment must never be reduced.

(7) Equipment must be classed and used according to the manufacturer's rating. Where low gear ratios or other devices are installed to increase the line pull in accordance with subsection (6) of this section, the size of the rigging must be increased accordingly so that it will safely withstand the increased strains.

(8) Each machine, including any machine provided by an employee, must be maintained in serviceable condition and the following:

(a) Each machine must be inspected before initial use during each workshift. Defects or damage must be repaired or the unserviceable machine is replaced before beginning work.

(b) Operating and maintenance instructions must be available on the machine or in the area where the machine is being operated. Each machine operator and maintenance employee must comply with the operating and maintenance instructions.

(c) Each machine must be operated only from the operator's station or as otherwise recommended by the manufacturer.

(d) Employees must not be allowed to ride on any load.

(9) The yarding machine or vehicle, including its load, must be operated with safe clearance from all obstructions.

(10) While manual/mechanized falling is in progress, all logging machines must be operated at least two tree lengths away from trees being fell.

**EXCEPTION:** This provision does not apply to logging machines performing tree pulling operations or logging machines called upon by the cutter to ground hazard trees. All cutters must be notified of the logging machine entrance into the area and all falling within two tree lengths of the logging machine must stop.

(11) If a hydraulic or pneumatic storage device can move the moving elements such as, but not limited to, blades, buckets, saws and shears, after the machine is shut down, the pressure or stored energy from the element must be discharged as specified by the manufacturer.

(12) Loads must not exceed the rated capacity of the pallet, trailer, or other carrier.

(13) Boom-type logging machines must have a boom stop to prevent over-topping of the boom.

(14) Boom points of timber booms must be equipped with metal straps, plates, or other devices as needed to properly secure eyebolts and fittings used to support lines, blocks, or other rigging.

(15) Logging machine sleds or bases must be strong enough to withstand any stresses imposed upon them.

(16) Stationary logging machines must be securely anchored or otherwise stabilized to prevent unintended movement while yarding or skidding.

(17) Logging machines and their components must be securely anchored to their bases.

(18) Logging machines must be kept free of flammable waste materials and any materials that might contribute to slipping, tripping or falling.

(19) A safe and adequate means of access and egress to all parts of logging machinery where persons must go must be provided and maintained in a safe and uncluttered condition. Machine access systems, meeting the specifications of the Society of Automotive Engineers, SAE J185, June 1988, "Recommended Practice for Access Systems for Off-Road Machines," must be provided for each machine where the operator or any other employee must climb onto the machine to enter the cab or to perform maintenance. Walking and working surfaces of each machine and machine work station must have a slip-resistant surface to assure safe footing.

(20) Enclosed-type cabs installed on mobile logging machines must have two means of exit. One may be an emergency exit and be available for use at all times regardless of the position of the side arms or other movable parts of the machine. An easily removable window is acceptable as the emergency exit if it is large enough for an employee to readily exit.

**EXCEPTION:** Mobile logging machines manufactured before July 1, 1980 are not required to have two means of exit.

(21) Before leaving the operator's station of a machine, the operator must ensure the machine is secured as follows:

(a) The parking brake or brake locks must be applied;

(b) The transmission must be placed in the manufacturer's specified park position; and

(c) Each moving element such as, but not limited to, blades, buckets, saws and shears, must be lowered to the ground or otherwise secured.

(22) Storing employee property, tools, or other miscellaneous materials on or within three feet of any logging machine is prohibited if retrieving the items would expose an employee to the hazardous pinch point area between the rotating superstructure and the nonrotating undercarriage.

(23) Employees must approach the hazardous pinch point area only after informing the operator of that intent and receiving acknowledgment from the operator that the opera-

tor understands the employee's intention. All logging machines must be stopped while any employee is in the hazardous pinch point area.

(24) After adjustments or repairs are made, logging machines must not be operated until all guards are reinstalled, safety devices reactivated, and maintenance equipment removed.

(25) Fairleads must be properly aligned at all times and designed to prevent line damage.

(26) Employee(s), except a mechanic or employee in training to operate equipment, must not ride on any mobile logging machine unless provided with seating, seat belts, and other protection equivalent to that provided for the operator.

(27) Riding on arches, reaches or turn of logs is prohibited.

(28) Tractors, skidders, arches, or logs being yarded by them must not run over or rub against anchored lines, tailhold stumps, or other rigging.

(29) Ends of lines attached to drums on logging machines must be secured by end attachments that develop the ultimate strength of the line unless three wraps of line are maintained on the drum at all times.

**EXCEPTION:** This does not apply to tractors or skidders.

(30) Wire rope must be wound on drum spools in a manner to prevent excessive wear, kinking, chafing or fouling.

(31) Guylines required in rigging spars or towers must be evenly spooled to prevent fouling.

(32) A guide pulley, tool, stick, iron bar or other mechanical or manual means must be used when guiding lines onto drums. Guiding lines onto drums with any part of the body in direct contact with the line is prohibited.

(33) A limit switch must be installed on electric-powered log loaders to prevent the lift arms from traveling too far in the event the control switch is not released in time.

(34) All forklift type log handling machines must be equipped with a grapple system and the arms must be closed whenever logs are being carried.

(35) When forklift machines are used to load, unload, or handle trailers, a positive means of holding the lifting attachment on the fork must be installed and used.

(36) Loads on forklift type log handling machines must be transported as low as safely operable without obstructing visibility.

(37) Guyline drum controls and outrigger controls must be separated and clearly identified in a manner that will prevent the engaging of the wrong control.

(38) Each machine must be equipped with guarding to protect employees from exposed moving elements, such as, but not limited to, shafts, belts, pulleys on chains, sprockets and gears in accordance with the requirements of this standard and chapter 296-24 WAC, Part C, Machinery and machine guarding. Guards must be in place at all times when machines are in use.

**Note:** This does not apply to lifting or yarding components such as, but not limited to, cable nip points, sheaves and blocks.

(39) Each machine used for debarking, limbing, and chipping must be guarded to protect employees from flying wood chunks, logs, chips, bark, limbs, and other material in

accordance with the requirements of this standard and chapter 296-24 WAC, Part C, Machinery and machine guarding.

(40) Grab rails must be provided and maintained in good repair on all walkways of stationary units elevated more than four feet.

(41) Towed equipment such as, but not limited to, skid pans, pallets, arches, and trailers, must be attached to each machine or vehicle to allow a full ninety degree turn; to prevent overrunning of the towing machine or vehicles; and to ensure that the operator is always in control of the towed equipment.

(42) Timbers used for masts or booms shall be straight-grained, solid, and capable of withstanding the working load.

## NEW SECTION

**WAC 296-54-57310 Logging machines—Chipping in woods locations.** In-woods chipping must be performed according to the following:

(1) Chipper access covers or doors remain closed until the drum or disc stops completely.

(2) Infeed and discharge ports are guarded to prevent contact with the disc, knives, or blower blades.

(3) The chipper is shut down and locked out according to the lockout/tagout requirements of chapter 296-24 WAC, Part A-4, when an employee performs any servicing or maintenance.

(4) Detached trailer chippers are chocked when used on any slope where rolling or sliding of the chipper is reasonably foreseeable.

## NEW SECTION

**WAC 296-54-57315 Logging machines—Exhaust pipes.** (1) Engines not equipped with turbochargers must be equipped with spark arrestors in compliance with the department of natural resources, chapter 332-24 WAC, requirements for spark-emitting equipment.

(2) Each machine muffler provided by the manufacturer, or their equivalent, must be in place at all times the machine is in operation.

(3) Exhaust pipes must be located or insulated to protect workers from accidental contact with the pipes or muffler and must direct exhaust gases away from the operator and other persons.

## NEW SECTION

**WAC 296-54-57320 Logging machines—Glass.** Glass installed on logging machines must:

(1) Be free of deposits of oil and mud or defects that could endanger the operator or other employees;

(2) Be safety glass or a type that provides equal protection;

(3) Be removed or replaced if defective or broken glass impairs the vision of the operator; and

(4) Have an additional metal screen or guard installed where glass does not provide adequate operator protection

from flying chokers, chunks, saplings, limbs, etc. The operator's vision must not be impaired.

#### NEW SECTION

**WAC 296-54-57325 Logging machines—Brakes.** (1) Brakes or dogs must be installed on all machine drums and maintained in effective working condition.

(2) Drum brakes must have an independent locking device that will hold the drum when the operator leaves the machine and the machine is not operating.

(3) Brakes must be protected from direct exposure to the elements or be designed or constructed to make them impervious to such exposure.

(4) At the start of each shift, logging machine operators must test all brakes before taking a load.

(5) Service brakes must be able to stop and hold each machine and its rated load capacity on the slopes over which it is being operated. Brakes must be effective whether or not the engine is running and regardless of the direction of travel.

(6) Self-propelled logging machines manufactured on or after July 1, 1985, must be equipped with braking systems as follows:

(a) A service braking system, which must be the primary means of stopping and holding the equipment;

(b) An emergency stopping system, which must be a secondary means of stopping the equipment in the event of any single failure of the service system; and

(c) A parking brake system, which must be used to continuously hold a stopped machine stationary within the limits of traction on any grade on which it is operated so as to allow the operator to leave the vehicle without the vehicle moving, and to prevent subsequent movement of the vehicle while unattended. The parking brake system must maintain this parking performance despite any contraction of brake parts, failure of the source of application, energy or leakage of any kind.

(7) The braking systems required in subsection (5) of this section must be installed, tested, and maintained according to the following Society of Automotive Engineers' (SAE) Recommended Practices:

(a) J1026-1982—Braking Performance—In Service Crawler Tractors and Crawler Loaders;

(b) J1473-1984—Braking Performance—Rubber-Tired Construction Machines;

(c) J1178-1980—Minimum Performance Criteria for Braking Systems for Rubber-Tired Skidders.

(8) Self-propelled logging machines manufactured before July 1, 1985, must have braking systems installed, tested and maintained in as effective a condition as originally intended by the manufacturer.

#### NEW SECTION

**WAC 296-54-57330 Logging machines—Outriggers.** (1) All outriggers must have a stable base under the outrigger or equivalent leveling pads as recommended by the equipment manufacturer.

(2) Outriggers must have a means to hold them in both the retracted and extended position.

(3) Hydraulic outriggers must have a positive holding device (velocity fuse, load check valve, manually operated valve or equivalent) to prevent movement of the piston in the event of a hose, fitting or other failure in the hydraulic system except when proper blocking is provided.

#### NEW SECTION

**WAC 296-54-57335 Logging machines—Hydraulics.** (1) If failure of hydraulic lines could create a hazard to an equipment operator while at the operator's station, safeguards must be installed that will eliminate the hazard.

(2) Machines or equipment must not be operated when hydraulic fluid leakage creates contamination of the operator's workstation, means of access or egress, or creates other unsafe conditions such as fire hazard or control malfunction.

(3) Abrasive contact with hydraulic hoses, tubing or fittings must be eliminated before further use.

(4) Defective hydraulic hoses, lines and fittings must be replaced.

#### NEW SECTION

**WAC 296-54-57340 Logging machines—A-frames.** (1) A-frames must be guyed or braced to provide stability and prevent tipping.

(2) A-frame bases must be secured against displacement and the tops must be securely bolted or lashed to prevent displacement.

(3) Where guylines are used, A-frames must have at least one snap guy and two guylines securely attached, anchored and spread to form an angle 70 degrees to 90 degrees opposite the direction of stress or strain.

#### NEW SECTION

**WAC 296-54-57345 Logging machines—Moving.** (1) Operators must ensure that all employees are in the clear before initiating or continuing the movement of any mobile equipment. The machine must be operated far enough from employees and other machines so that operation does not create a hazard for an employee.

(2) At any time when moving logging machines, the driver must have a clear and unobstructed view of the direction of travel. When this is not possible, a signal person with a clear and unobstructed view of the direction of travel must be designated and used to direct the movement of the machine, or the machine must have an audible horn that is sounded.

EXCEPTION: This does not apply to tractors, skidders or tree harvesters during normal yarding operations.

(3) Where a signalperson is used, the equipment operator must move the equipment only on signal from the designated signalperson and only when the signal is distinct and clearly understood.

(4) When moving power units, persons other than the operator and the person in charge must not be permitted to ride on the unit.

(5) All obstructions that may reach the operator while moving a machine must be removed.

(6) When moving to areas within the immediate landing area, all employees must stay in the clear of the logging machine(s) or must inform the operator of the intent to approach or be near the machine(s).

(7) Mobile yarders and wheel or crawler loaders must not travel on road grades greater than 15 percent unless they are securely snubbed or towed, or have a braking system designed for such travel by the manufacturer.

(8) Crawler-type, track-mounted logging machines with manual transmissions must be equipped with a ratchet or other device that will prevent unintended disengagement or reversing of the machine and the operator must be informed of the proper technique.

### NEW SECTION

**WAC 296-54-57350 Logging machines—Tractors and skidders.** (1) Operators must operate and control their machines in a safe manner and avoid operations in areas where machine stability may not be maintained.

(2) Winch lines on logging tractors or skidders must be attached to the drums with a breakaway device.

(3) Arches must be equipped with line guards.

(4) A turnaround, if needed for skidders, must be provided on all skidding roads every 500 feet.

(5) The following safe work procedures must be followed:

(a) Lines must not be allowed to trail behind the tractor or skidder where it may hang up and snap forward.

(b) Each machine must be positioned during winching so the machine and winch are operated within their design limits.

(c) Logs/trees must be chocked near the ends of the logs/trees whenever possible and safely positioned before traveling.

(d) Before climbing or descending grades, the proper gear must be selected to allow the engine to govern the tractor speed.

(e) On side hills, abrupt turns uphill must be avoided. The tractor or skidder must be backed downhill first then turned uphill. The turn may be slacked off as necessary to permit this maneuver.

(f) Tractor or skidder speed must be adjusted to the circumstances prevailing. Excessive or uncontrolled speed must be avoided.

(6) Where tractor and skidder operators or helpers, because of the nature of their work duties, are required to wear calk soled footwear, the decks and operating foot controls must be covered with a suitable nonslip material.

### NEW SECTION

**WAC 296-54-57355 Logging machines—Protective structures for operators.** (1) Each tractor, skidder, log stacker and mechanical felling device, such as tree shears or feller-buncher, placed into initial service after February 9, 1995, must be equipped with falling object protective structure (FOPS) and/or rollover protective structure (ROPS). The

employer must replace FOPS or ROPS which have been removed from any machine.

**EXCEPTION:** This requirement does not apply to machines which are capable of 360 degree rotation.

(2) ROPS must be installed, tested, and maintained in accordance with the Society of Automotive Engineers SAE J1040, April 1988, "Performance Criteria for Rollover Protective Structures (ROPS) for Construction, Earthmoving, Forestry, and Mining Machines."

(3) The ROPS must be high enough and wide enough so that it will not impair the movements of the operator or prevent his immediate escape from the vehicle in emergencies and must allow as much visibility as possible. Clearance above the deck and the ROPS of the vehicle at exits must be at least fifty-two inches (1.3 meters).

(4) Certified roll-over protective systems must be identified by a metal tag permanently attached to the ROPS in a position where it may be easily read from the ground. The tag must be permanently and clearly stamped, etched or embossed indicating the name and address of the certifying manufacturer or registered professional engineer, the ROPS model number (if any) and the vehicle make, model or serial number the ROPS is designed to fit.

(5) Roll-over protective structure systems must be maintained in a manner that will preserve their original strength. Welding must be performed by qualified welders only. (A qualified welder is defined under "welder qualification" in American Welding Society A.W.S. A3.0-69.)

(6) FOPS structures must be installed, tested and maintained according to:

(a) The society of automotive engineers SAE J231-1971, "minimum performance criteria for falling object protective structures (FOPS) prior to February 9, 1995."

(b) Society of automotive engineers SAE J231, January 1981, "minimum performance criteria for falling object protective structures (FOPS) for each tractor, skidder, log stacker, log loader and mechanical falling device, such as tree shears or feller-buncher, placed into initial service after February 9, 1995."

(7) The employer must replace FOPS that have been removed from any machine.

(8) Vehicles with ROPS or FOPS as required in subsection (1) of this section, must comply with the society of automotive engineers SAE J397a-1972, "deflection limiting volume for laboratory evaluation of roll-over protective structures (ROPS) and falling object protective structures (FOPS) of construction and industrial vehicles." Vehicles placed into initial service after February 9, 1995, must meet the requirements of SAE J397-1988.

(9) The opening in the rear of the ROPS on the crawler or rubber-tired tractors (skidders) must be covered with 1/4-inch diameter woven wire having not less than 1-1/2-inches or more than 2-inch mesh, or material which will afford equivalent protection for the operator.

(a) The covering must be attached to the structural members so that enough clearance is provided between the screen and the back of the operator.

(b) Structural members must be free from projections that would tend to puncture or tear flesh or clothing.

(c) Suitable safeguards or barricades must be installed, in addition to the screen, to protect the operator when there is a possibility of being struck by any material that could enter from the rear.

(10) Crawler and rubber-tired tractors (skidders) working in areas where limbs or brush may endanger the operator must be guarded.

(a) Shear or deflector guards must be installed on each side of the vehicle at an angle leading forward and down from the top front edge of the canopy of the vehicle, which will tend to slide the brush or limbs up and over the top of the canopy.

(b) Open mesh material with openings of a size that will reject the entrance of an object larger than 1-3/4-inches in diameter, must be extended forward as far as possible from the rear corners of the cab sides to give the maximum protection against obstacles, branches, etc., entering the cab area.

(c) Deflectors must also be installed ahead of the operator to deflect whipping saplings and branches.

(d) Deflectors must be located so as not to impede entrance to or exit from the compartment area.

(e) The floor and lower portion of the cab must be completely enclosed with solid material, except at entrances, to prevent the operator from being injured by obstacles which otherwise could enter the cab compartment.

(11) Enclosures for agricultural and industrial tractors manufactured after September 1, 1972, must be constructed, designed and installed as detailed in the society of automotive engineers technical report J168. Each machine manufactured after August 1, 1996, must have a cab that is fully enclosed with mesh material with openings no greater than 2 inches (5.08 cm) at its least dimension. The cab may be enclosed with other material(s) where the employer demonstrates such material(s) provides equivalent protection and visibility.

**EXCEPTION:** Equivalent visibility is not required for the lower portion of the cab where there are control panels or similar obstructions in the cab, or where visibility is not necessary for safe operation of the machine.

(12) Overhead protection and other barriers must be installed to protect the operator from lines, limbs, and other moving materials on or over all loading or skidding machines and on all yarding machines where the operator's station is mounted on board. The overhead covering of each cab must be of solid material and extend over the entire canopy. A skylight in a logging machine must be made of safety glass or provide equivalent protection.

Note: This does not apply to self-loaders.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-575 ((Motor truck log transportation—Stakes, stake extensions and chock blocks.)) Landing area. (((1) Trucks and trailers shall be equipped with bunk stakes or chock blocks of strength and sized material to perform their intended function:**

**(2) Stake extensions shall not be used unless all component parts of the bunking system are of sufficient size and**

**strength to support the added stresses involved. Stake extensions shall be secured by safety chains or other devices to prevent their accidental displacement.**

**(3) The linkage used to support the stakes or chocks must be of adequate size and strength to withstand the maximum imposed impact load. Molles or cold shuts are prohibited in chains or cables used for linkage.**

**(4) Stake chains or cables shall be equal to or better than "high test" steel chain or "plow steel" wire rope, and shall be of a size necessary to meet the requirements of a safe working load of not less than six thousand six hundred pounds. (3/8-inch alloy chain, 7/16-inch high test chain of welded link construction, and 5/8-inch improved plow steel cable in 6 x 19 and 6 x 37 construction meet this requirement.)**

**(5) Bunk chains containing cut, cracked, excessively worn, or otherwise defective links, shall be immediately removed from service. Molles, cold shuts (welded or otherwise), or bolts are not permitted in bunk chains.**

**(6) The use of frayed, stranded, or otherwise defective wire rope for chock block cable or stake straps is prohibited.**

**(7) Only chain links approved for welding (and properly welded) or approved repair links which will develop a strength equivalent to the chain, are permissible for repairs or attachments to stake chains or binder chains.**

**(8) Chains or cables used to secure stakes or chock blocks shall be secured in a manner which will not necessitate hammering directly on them to release the stakes or blocks. Keyhole slots and similar methods of securing chains are prohibited.**

**(9) Deformed or defective stakes, stake securing or stake locking devices, or bunks shall be immediately repaired or removed from service.**

**(10) Each stake and chock which is used to trip loads shall be so constructed that the tripping mechanism is activated on the side opposite the release of the load.)) (1) Unless otherwise specified, landing areas must:**

**(a) Be large enough that if logs are to be heeled and swung, they will not strike standing timber, rigging, or other equipment or objects;**

**(b) Be large and level enough to land and deck the logs in the turns so that they will not slide or roll in the direction of employees or equipment. This is not intended to restrict the yarding and/or loading of logs for pole piling or an infrequent long break or tree length, provided the log is secured before unhooking the choker;**

**(c) Be large enough for safe movement of all logs and machinery;**

**(d) Landings must be free of root wads, limbs, tops, etc., that constitute a safety hazard; and**

**(e) Not have materials pushed, thrown, or dumped over the edge in a manner or at a time that will endanger employees.**

**(2) When during roadside thinning, logs stacked on the roadside without a landing must be placed in a stable condition.**

**(3) During uphill yarding, the landing chute must be cleared of logs before the next turn of logs is landed unless:**

**(a) The logs are fully contained in the landing chute; or**

(b) There is no possibility that employees working below the landing may be struck by rolling objects coming off the landing.

(4) Roadside or continuous landings must be large and wide enough to safely operate and maintain the yarding or loading equipment. Outrigger pads, tracks or wheels must be on firm, stable ground.

(5) In logging operations where the yarder is set up in the haul road and logs are landed on the slope below the road, the following must apply:

(a) If the landing chute slope is twenty percent or less, logs may be landed and decked in the chute provided the logs can be left in a stable position;

(b) If the landing chute slope exceeds twenty percent, decking is not permitted in the chute if a chaser is required to unhook the rigging from the logs or if employees are working below the landing chute and are exposed to rolling or sliding logs;

(c) If logs are to be decked below the road, the logs must be effectively secured from rolling or sliding down the hill; or

(d) If the landing process or weather conditions (rain, snow, ice, mud) prevent the required log stability and exposes employees to the hazard of rolling or sliding logs, the logs must be decked at a different location.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-577 ((~~Motor truck log transportation—Wrappers and binders.~~)) **Yarding, skidding, landing,** (((1) On log trucks equipped with stakes, the following requirements shall apply:

(a) In the hauling of a one-log load, one wrapper chain or cable shall be required and secured to the rear bunk. The log shall be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper secured to the front bunk is optional.

(b) In the hauling of two-log loads, not less than two wrapper chains or cables shall be used to secure the load. The logs shall be properly blocked to prevent them from rolling or shifting.

(c) On loads consisting of three or four logs not over forty-four feet in length, the load shall be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers shall be secured with extra wrappers. If any log is over forty-four feet in length, the load shall be secured by not less than three properly spaced wrappers.

(d) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, shall be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, shall be secured by not less than three properly spaced wrappers.

(2) On log trucks equipped with chock blocks, the following requirements shall apply:

(a) In the hauling of a one-log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log shall be properly blocked in a manner to prevent it from rolling or shifting.

~~(b) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subdivisions (1)(c) and (d) of this section.~~

~~(3) In the case of short logs loaded crosswise, the following method of securing the load shall be used if the truck or trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off. Not less than two chock blocks shall be used at each open end of the vehicle and the load shall be held with at least two wrapper chains or cables. The wrappers shall be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake shall be either rigidly connected to the bed of the truck or trailer or shall be placed in a tight fitting socket at least 12 inches in depth. Other means furnishing equivalent security may be acceptable.~~

~~(4) When two wrappers are required, they shall be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder shall be applied within six feet of the front and rear bunks.~~

~~(5) To properly secure short logs, binders shall be placed near the end, not less than twelve inches from the end of the log.~~

~~(6) No log loaded on top or in outside saddles of a load shall be transported unless secured by not less than two wrapper chains or cables, one of which shall be placed near each end of such log.~~

~~(7) All wrappers and binders shall be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.~~

~~(8) All wrapper chains or cables, except in the case of one log loads, shall entirely surround the load. This does not apply to gut wrappers.~~

~~(9) Gut wrappers, when used, shall be adjusted so as to be tightened by, but not carry the weight of the logs above them.~~

~~(10) A warning shall be given before throwing wrappers over the load and care shall be taken to avoid striking other persons with the wrapper.~~

~~(11) Wrappers and binders shall be placed and tightened around the completed load before the truck leaves the immediate loading area.~~

~~(12) While moving logs, poles, or log chunks within sorting or mill yards, that could roll or slide off the truck due to snow or ice conditions, or the logs or log chunks do not extend beyond the stakes, at least two wrappers and binders shall be used regardless of the height of the load.~~

~~(13) Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards, shall have a minimum breaking strength of not less than fifteen thousand pounds and shall be rigged so that it can be safely released.~~

Note: ~~3/8-inch hi-test steel chain, 7/16-inch improved plow steel wire rope of 6x19 or 6x37 construction, or materials having equivalent strength, when in compliance with the requirements herein contained, will be acceptable. (The diameter of the wire rope is immaterial as long as it meets the minimum breaking strength requirements.)~~

(14) A loaded logging truck required to have wrappers by this section, may be moved within the loading area without wrappers only if such movement does not present a hazard to workers.

(15) For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(16) All loose ends of wrapper chains or cables shall be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(17) Binders for securing wrappers on logging trucks shall be fitted with hooks of proper size and design for the wrapper chain being used.

(18) Wrappers shall be removed from service when any of the following conditions exist:

- (a) Excessively worn links on chains;
- (b) Deformed or stretched chain links;
- (c) Cracked chain links;
- (d) Frayed, stranded, knotted, or otherwise defective wire rope.

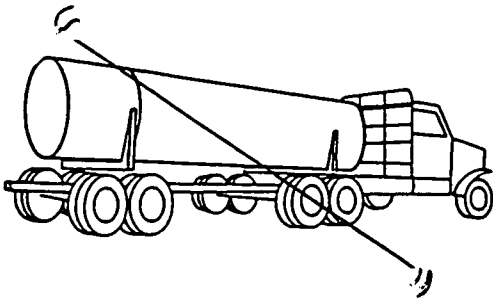
(19) Pipe extension handles (swedes) for tightening or securing binders shall be limited to not longer than thirty six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(20) Defective binders shall be immediately removed from service.

Note: See Figures 9-A and 9-B for illustrations of placement and number of wrappers.

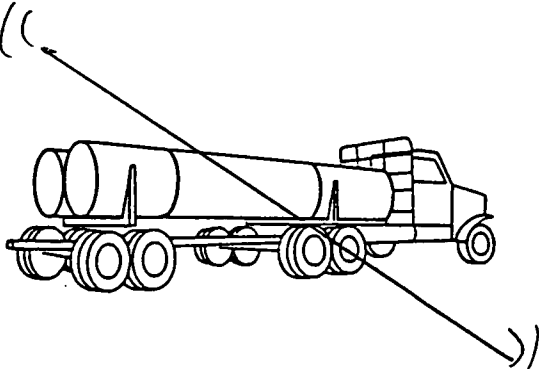
PLACEMENT AND NUMBER OF WRAPPERS

One Log Load



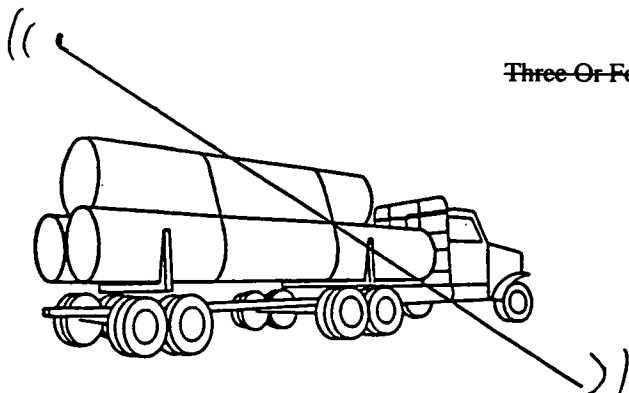
One wrapper required which shall be secured to the rear bunk. Log shall be blocked or secured in a manner to prevent it from rolling or shifting. An additional wrapper secured to the front bunk is optional.

Two Log Load



A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting. If all logs are not contained by the stakes, additional wrappers required.

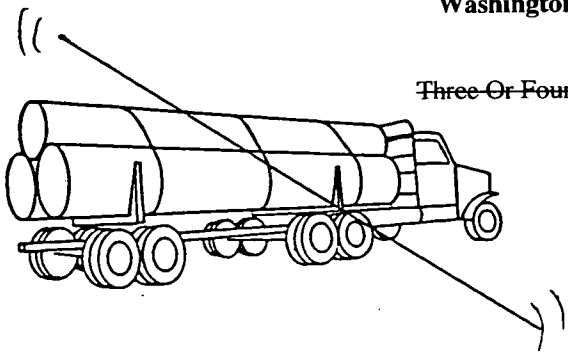
Three Or Four Log Load 44 Ft. Or Less



A minimum of two wrappers required. If all logs are not contained by the stakes, additional wrappers required.

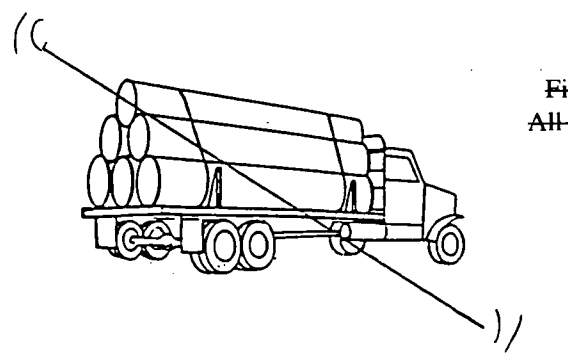
PERMANENT





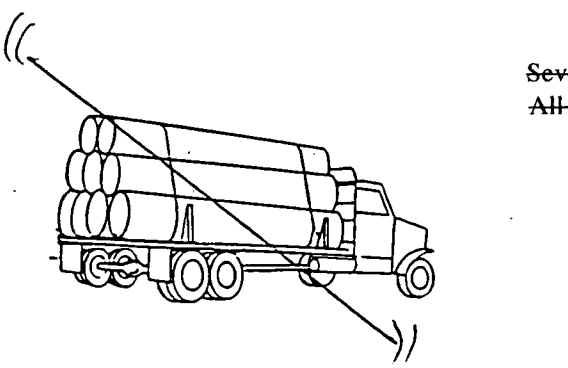
Three Or Four Log Loads More Than 44 Feet

A minimum of three wrappers required. If all logs are not contained by the stakes, additional wrappers required.



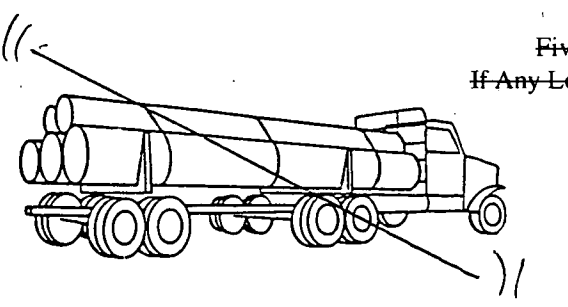
Five Or Six Log Load  
All Logs 17 Feet Or Less

A minimum of two wrappers required. If all logs are not contained by the stakes, additional wrappers required.



Seven Or More Log Load  
All Logs 17 Feet Or Less

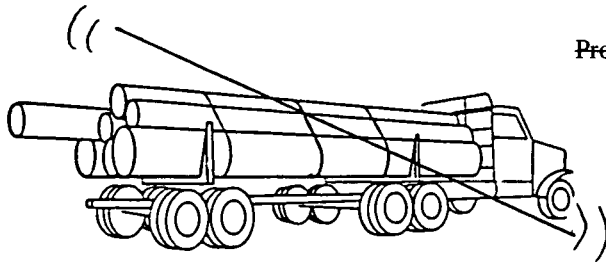
A minimum of two wrappers required. If all logs are not contained by the stakes, additional wrappers required.



Five Or More Log Load  
If Any Logs Are More Than 17 Feet

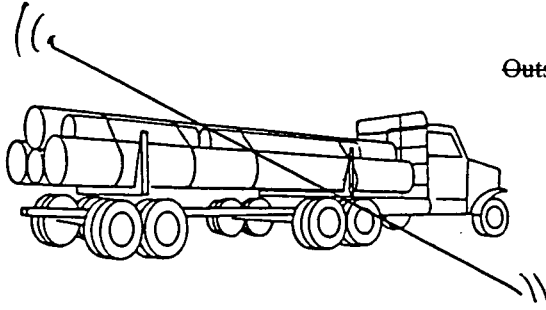
A minimum of three wrappers are required. If all logs are not contained by the stakes, additional wrappers required.

PERMANENT



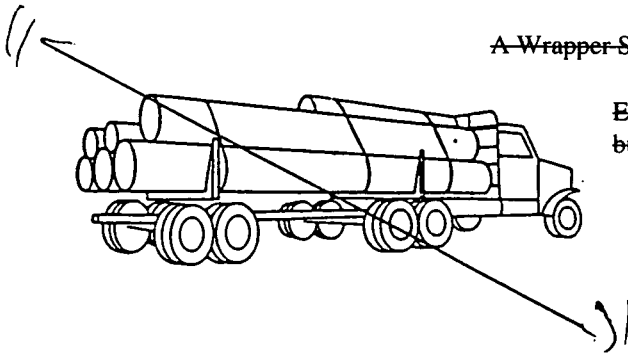
Proper Support For Logs

Not more than approximately one-third the weight of any log shall extend beyond the end of the logs or bunk supporting it.



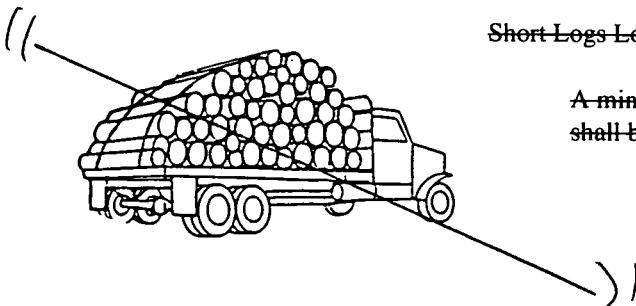
Outside Logs Or Top Logs

All outside (wing) or top logs shall be secured by a wrapper near but not within 12 inches of each end.



A Wrapper Shall Be Near Each Bunk

Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.



Short Logs Loaded Crosswise

A minimum of two wrappers are required and two chocks or stakes shall be used on the open end of the truck.

Note: All loads of logs on logging trucks equipped with chock blocks instead of stakes, shall have at least one additional wrapper over and above the requirements for trucks equipped with stakes, excepting on one and two log loads and trucks with short logs loaded crosswise.)

(1) Running lines must be arranged so that employees are not required to work in the bight of the line. When employees must work in the bight, employees must move out

of the bight of the lines before the signal to move the turn is given, or be in a position where they are protected by standing timber, terrain, or other objects large enough to ensure their safety.

(2) Choker holes must be dug from the uphill side of the log when there is danger of the log rolling or moving.

PERMANENT

(3) Chokers must be placed near the end of the log/tree whenever possible.

EXCEPTION: When long logs or tree-length logs are being yarded and a long end is necessary to safely land the logs/trees on the available landing space.

(4) Employees must be in the clear of logs, root wads, chunks, hazardous trees, rolling material and rigging before the go-ahead signal is given and must stay in the clear until all rigging movement has stopped.

(5) Employees must move away from the turn so as to be above or behind the turn and in the clear. They must remain on their feet and face the turn before the go-ahead signal is given.

(6) All employees must remain away from rigging that is stopped at a hangup, until the rigging has been slacked to reduce the hazard.

(7) Chokers must not be hooked or unhooked until all rigging is stopped completely.

(8) Logs must not be landed until all employees, trucks or equipment are in the clear.

(9) Logs must not accumulate in the landing chute to the point where they become a hazard to the landing personnel.

(10) Logs must be stable and secure before being approached by employees and before chokers are unhooked.

(11) An employee must not buck, limb or trim logs from a position that will expose the employee to contact with moving lines.

(12) Logs must not be placed in, moved about, or removed from the bucking area of the landing unless all employees are in the clear.

(13) An unimpaired horizontal clearance of at least three feet must be maintained between the rotating superstructure of any logging machine working on a landing and any adjacent object or surface. If this clearance cannot be maintained, a safety zone barrier must be used to isolate the hazardous area. The safety zone barrier may be a warning line constructed of rope or ribbon, supported on stanchions.

(14) "DANGER 36-INCH CLEARANCE" must be marked near the rear of the machine.

(15) Employees must not approach a machine's working circle until the operator has acknowledged that it is safe to do so.

(16) Whenever possible, chokers must be set from the uphill side of a log. Persons must not be on the lower side of a log which appears to be unstable or likely to roll.

(17) When yarding during the hours of darkness, the area must be lighted enough to allow employees to safely perform their duties. The source of light must be located and directed to create minimum shadows and glare. If using a portable tailhold, lights must be directed on equipment to allow the person to visually determine that the tailhold equipment remains stabilized.

(18) Each yarded tree/log must be placed in a location that does not create a hazard for an employee and in an orderly manner so that the trees/logs are stable before bucking or limbing is commenced.

(19) When using a yarder, loader or skidding machine, the location of the machine or position of the yarder must be

such that the operator will not be endangered by incoming logs or debris.

(20) Employee(s) must be assigned to flag on roads or provide other equivalent protection where hazardous conditions are created from logging such as, but not limited to:

(a) Running wire rope lines or rigging across road grades, excluding guylines and standing skylines if lines remain a safe distance above the road to allow a vehicle to pass under; or

(b) The movement of logs, chunks, or debris across or suspended over road grades.

EXCEPTION: Where there is no through traffic, such as on a dead end road or where the property owner's permission or proper authority is granted to close a section of road, warning signs and barricades may be used instead of flagger(s).

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-579 (~~Motor truck log transportation—Miscellaneous requirements.~~) **Log decks.** ((1) No truck wheel shall have more than twenty-five percent of the lugs missing or defective.

(2) All truck wheels shall be maintained free of cracks, breaks, or defects.

(3) Windshields on all equipment shall be provided with windshield wipers in good working condition.

(4) Mule train trailers shall have a platform on the trailer tongue at least twelve inches by twenty-four inches made of nonslip material and capable of supporting at least three hundred pounds. The platform shall be of the self-cleaning type.

(5) Logs shall be loaded so that not more than approximately one-third of the weight of any log shall extend beyond the end of the logs or bunk supporting it.

(6) Trailer loading and unloading straps, links, or chains shall be fastened securely to the trailer frame and used in hoisting the trailer. The connections shall be maintained in good condition and shall not be attached to the trailer bunk. The use of molles for this purpose is prohibited.

(7) In unloading trailers from trucks, trailers shall be hoisted clear, the truck driven forward a safe distance, and the trailer lowered to within one foot of the roadway before persons approach the trailer or reach.

(8) Trailer hoisting or unloading straps shall be constructed and installed in a manner enabling the loading or unloading machine to engage the strap without manual personal contact.

(9) All motor vehicles shall be equipped with a horn that is audible above the surrounding noise level. The horn shall be sounded before operating the vehicle in reverse gear and sounded intermittently during the entire backing operation. The horn shall be maintained in an operative condition.)) (1) Logs must be placed in and removed from decks in a straight and orderly manner so as to minimize the hazards from rolling or shifting logs.

(2) If employees are working on the ground near the deck, the deck must be constructed and located so it is stable and provides each employee with enough room to safely move and work in the area.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-581** (~~(Motor truck log transportation—Steered trailers.)~~) **Helicopter logging—General.** (~~(Steered trailers, not controlled from the truck cab, shall be designed, constructed, and operated as follows:~~

(1) ~~A secure seat with substantial foot rest shall be provided for the operator at the rear of the bunk. Any arrangement that permits the operator to ride in front of the bunk is prohibited unless a false bunk or other adequate protection is provided for the operator.~~

(2) ~~The seat for the operator shall be so arranged that he has an unobstructed exit from both sides and the rear.~~

(3) ~~The bunk support shall be so constructed that the operator has a clear view ahead at all times.~~

(4) ~~Adequate means of communication shall be provided between the operator and the truck driver.~~

(5) ~~Eye protection and respirator shall be provided for the operator.~~

(6) ~~The trailer shall be equipped with fenders or splash plates to protect the operator from mud and dust so far as possible.~~

(7) ~~If used during periods of reduced visibility on roads not under the control of the state department of transportation, counties, or cities, the trailer shall be equipped with head, tail, turn and stop lights.)~~ (1) Prior to daily logging operations, a briefing must be conducted. The briefing must set forth the plan of operation for the pilot(s) and ground personnel. Anytime a change in operating procedure is necessary, affected personnel must be notified.

(2) Employees and equipment must remain in the clear and employees must never be under a suspended load.

(3) Employees must not work under hovering craft except for that limited period of time necessary to guide, secure, hook/unhook loads, and perform maintenance/inspections or other related job duties.

(4) The location of the drop zone, decking areas, loading areas, and designated safety zones must be established by a pilot and a responsible supervisor taking into consideration current operating conditions.

(5) Personal protective equipment.

(a) Employees must wear high visibility hard hats secured by a chinstrap.

(b) Employees hooking and receiving the load must wear high visibility vests or outer garments.

(6) Whenever approaching or leaving a support helicopter with blades rotating, employees must:

(a) Remain in full view of the pilot and keep in a crouched position;

(b) Obtain a visual or audible acknowledgment from the pilot before entering or exiting the helicopter;

(c) Avoid the area from the cockpit or cabin rearward unless authorized by the helicopter company to work there; and

(d) Exercise special caution to keep clear of rotors when visibility is reduced.

(7) Before approaching or departing the service area for maintenance, visual and/or audible communication must be established.

(8) There must be reliable communication available between the helicopter, woods crew, landing, and service areas. In the absence of radio communication there must be a designated signal person.

(9) Developed hand signals must be clearly communicated and understood by all persons working in the area who may be affected by their use.

(10) Riding the load or hook of a helicopter is prohibited except in an emergency.

(11) Unauthorized employees must not be allowed to approach within fifty feet of the helicopter when the rotor blades are turning.

(12) Every practical precaution must be taken to provide for the protection of employees from flying objects in the rotor downwash.

(13) Loads must be properly slung. Tag lines used by ground personnel to position loads must be of a length that will not permit their being drawn up into rotors. Pressed sleeve, swaged eyes, or equivalent means must be used for all freely suspended loads to prevent hand splices from spinning open or cable clamps from loosening.

#### NEW SECTION

##### **WAC 296-54-58110 Helicopter logging—Landing.**

(1) The landing drop zone must be large enough for the longest logs to be landed without endangering the landing crew.

(2) Landing crew must remain in the clear until the load is placed flat on the ground and chokers are released from the hook.

(3) Landings must be constructed with minimal slope for drainage in the drop zone and a decking area to prevent logs from rolling.

(4) The approach to the landing must be kept clear and long enough to prevent tree tops from being pulled into the landing.

(5) Landing personnel must be notified when chokers are being picked up.

(6) If the load will not release from the hook, the hook must be on the ground or at eye level, whichever is safer, before employees approach to release the hook manually.

#### NEW SECTION

##### **WAC 296-54-58120 Helicopter logging—Yarding.**

(1) Helicopters must not work in areas near enough to cutters to cause the rotor wash to affect a cutter's ability to safely control a tree or to cause dislodging of limbs.

(2) The yarding helicopter must be equipped with a siren to warn employees of any hazardous situation.

(3) Log pickup must be arranged so that the hookup crew will not work on slopes below fell and bucked timber that appears unstable and likely to roll.

(4) If the load must be lightened by the hooker, the hooker must remain on the uphill side of the load and slack given to the entire load before releasing the hook.

(5) If the load must be aborted or lightened by the pilot, the hooker must be in the clear before releasing the hook.

(6) Employees must remain in the clear as chokers are being delivered. Under no circumstances can employees

move under the chokers being delivered or take hold of the chokers before they are placed on the ground.

## NEW SECTION

**WAC 296-54-58130 Helicopter logging—Fueling area.** (1) Separate areas must be designated for landing logs and for fueling helicopter(s).

(2) Refueling any helicopter with either aviation gasoline or Jet B (turbine) type fuel while the engine is running is prohibited.

(3) Helicopters using Jet A (turbine-kerosene) type fuel may be refueled with engines running provided the following criteria are met:

(a) Unauthorized employees must not be allowed within fifty feet of the refueling operation or fueling equipment; and

(b) Fire extinguishers must be strategically located in the fueling area and must have a combined rating of at least 20A:120BC.

(4) All fueling employees must be thoroughly trained in the refueling operation and in the use of the available fire extinguishing equipment they may be expected to use.

(5) The following are prohibited within fifty feet of the fueling area or fueling equipment:

- Smoking;
- Open flames;
- Exposed flame heaters;
- Flare pots; and
- Open flame lights.

**EXCEPTION:** Aircraft preheaters are not prohibited. However, no fueling may be performed while the heaters are in operation.

(6) The fueling area must be posted with "no smoking" signs.

(7) Because there are many causes of static electricity, fueling employees must assume that it is present at all times. Before starting refueling operations, the fueling equipment and the helicopter must be bonded and the fueling nozzle must be electrically bonded to the helicopter. Using conductive hose is not an acceptable method of bonding. All grounding and bonding connections must be electrically and mechanically firm to clean unpainted metal parts.

(8) To control spills, fuel must be pumped either by hand or power; pouring or gravity flow is prohibited. Self-closing nozzles or deadman controls must be used and must not be blocked open. Nozzles must not be dragged along the ground.

(9) In case of a spill, the fueling operation must be immediately stopped until the person in charge determines that it is safe to resume.

(10) Helicopters with their engines stopped while being refueled with aviation gasoline or Jet B (turbine) type fuel, must comply with subsection (4) through (9) of this section.

**AMENDATORY SECTION** (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-583 ((Stationary log truck trailer) Loading logs.** ~~((1) All loading devices shall be designed,~~

~~constructed, and maintained in such a manner as to have a five to one safety factor for its rated load capacity.~~

~~(2) Loaders shall be constructed of such height and width that they can be safely used to load the maximum sized trailers they will be expected to handle without hanging up or striking the equipment.~~

~~(3) Electric powered trailer loading devices shall be equipped with a switch or device which will govern the upper direction of travel of the load line to a safe limit.~~

~~(4) Electric motors used for hoisting purposes shall be equipped with approved overload switches or breakers.~~

~~(5) All electrical switch controls shall not exceed twenty-four volts. All control switches shall be of the momentary contact type which require continuous manual pressure for hoist to operate.~~

~~(6) Pendant type control switches shall be suspended by a chain or other suitable device which will prevent placing a strain on the electrical cable.~~

~~(7) Pendants shall be so installed that when retracted the control switch shall not touch the ground.~~

~~(8) All electrical equipment shall be weatherproof type or adequately protected from the weather, and shall meet or exceed the requirements of the National Electrical Code as promulgated by the director of the department of labor and industries pursuant to RCW 19.28.060.~~

~~(9) Trailer loaders, except A frame type or bridge crane, shall be equipped with reach guides or devices which will keep reach in proper alignment. A tag rope or other safe guidance device shall be used to guide trailers being loaded by use of an A frame type loader.~~

~~(10) Access roads and the area around the trailer loading devices shall be kept free of standing water and debris and maintained in good repair.~~

~~(11) The maximum capacity load to be lifted shall be posted in a conspicuous location where it can be easily seen by any person operating the hoist.~~

~~(12) Trailer loading equipment shall be periodically inspected at least every thirty days and shall be maintained in good repair. A written report shall be made and signed by the person making the inspection and kept on file by the company for twelve months.~~

~~(13) A lifting test shall be conducted annually on each loading device and a written record showing the date, name of person conducting the test, amount of weight lifted and results shall be kept in the office of the employer or at the site. The test weight shall be at least one hundred twenty five percent of the maximum rated load but not more than one hundred thirty percent of the maximum rated load.~~

~~(14) Each drum shall be designed and arranged in such a manner that the line will maintain lead and spool evenly without chafing, crossing or kinking.~~

~~(15) A braking system shall be installed which shall have the capability of safely braking and holding one and one half times weight of the full rated load.~~

~~(16) When trailers are to be loaded after dark, sufficient lights shall be provided for a safe operation.))~~ **(1) A positive means of communication must be established and used between the truck driver and the employee loading logs to control the movement of the log truck being loaded.**

(2) Employees must not be permitted alongside or underneath trucks being loaded or on the load until communication has been established with the loading machine operator and the truck driver, and the employee is assured that it is safe to be there.

(3) Logs being moved or loaded must not pass over any employee or an occupied vehicle, equipment or truck cab.

(4) Standing between a truck cab and a log being loaded or unloaded is prohibited.

(5) Logs must not be lowered to the bunk while bunk or block adjustments are being made or until the employee making these adjustments is in the clear.

(6) Standing underneath a suspended trailer or its reach is prohibited.

(7) Loads must be built up or loaded in a manner to be stable without the use of wrappers. Wrappers are considered only as precautionary measures to ensure stability of the load.

(8) Where there is a danger of the grapple slipping off of logs, straps must be used in loading logs that are too large for the grapple or tongs and must be hung in both eyes.

(9) Logs must be loaded in a manner to prevent excessive strain on wrappers, binders, bunk stakes, bunk chains or straps.

(10) Logs in any tier or layer unsecured by stakes or cheese blocks must be well saddled and have their diameter centers inside the diameter centers of the outer logs of the next lower tier or layer.

(11) Bunk and wing logs must extend at least twelve inches beyond the front and rear bunks or stakes. When fixed bunks are used, logs must extend at least six inches beyond the front and rear bunk or stake.

(12) Double-ended logs above the stakes must not be loaded on the side of the load from which the binders or wrappers are intended to be released.

(13) Logs must be loaded so that no more than one-third of the weight of any log extends beyond the end of the logs or bunk supporting it.

(14) Logs must be loaded in a manner that will not impair full and free movement of the truck.

(15) Each log not contained within the stakes must be secured with at least two wrappers before the truck leaves the vicinity of the landing/loading area.

(16) All of the required wrappers must be placed on the load within sight of the landing/loading area so immediate emergency assistance can be given if necessary.

(17) Loads or logs must not be moved or shifted while binders are being applied or adjusted.

(18) The transport vehicle must be positioned to provide working clearance between the vehicle and the deck.

(19) All limbs or knots that would project beyond the stakes or legal height must be removed before the log is loaded on the car or truck.

Note: This does not apply to incidental limbs/knots placed on loads during the normal loading process.

(20) Power saws must not be operated on top of loaded logging trucks.

## NEW SECTION

**WAC 296-54-584 Tongs, hooks, grapples.** (1) Tongs must be maintained in good condition, properly aligned and with sharp points.

(2) Tongs must not be carried by being rested on both shoulders with the tong points around the neck.

(3) When loading logs, straps of sufficient size and length must be used where there is a danger of tongs or hooks pulling out of the log.

(4) When loading logs, tongs may be used on large logs if the logs are barked and notched to ensure a secure hold.

(5) The closing line must be securely attached to the grapple according to the manufacturer's recommendations.

(6) Loading hooks and tongs must be securely attached on the loading line with screw shackles or equivalent devices.

## AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-585 (~~Log unloading, booms, and rafting grounds—Storage and sorting areas—General requirements~~.) Cross-haul systems.** (~~((1) At no time shall one person be permitted to work alone.~~

~~(2) (a) Employees working on over or along water, where the danger of drowning exists, shall be provided with and shall wear approved personal flotation devices.~~

~~(b) Employees are not considered exposed to the danger of drowning when:~~

~~(i) The water depth is known to be less than chest deep on the exposed individual;~~

~~(ii) When working behind standard height and strength guardrails;~~

~~(iii) When working inside operating cabs or stations which eliminate the possibility of accidentally falling into the water;~~

~~(iv) When wearing approved safety belts with lifeline attached so as to preclude the possibility of falling into the water.~~

~~(c) Prior to and after each use, personal flotation devices shall be inspected for defects which would reduce their designed effectiveness. Defective personal flotation devices shall not be used.~~

~~(d) To meet the approved criteria required by subdivision (a), a personal flotation device shall be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices). Ski belt or inflatable type personal flotation devices are specifically prohibited.~~

~~(3) In operations where regular logging machinery, rigging, etc., is used, the applicable sections of these rules shall apply.~~

~~(4) Artificial lights shall be provided and used where work is to be done between the hours of sunset and sunrise. Such lights shall be located in a manner that will be reasonably free of glare and provide uniform distribution of illumination and avoid sharply defined shadows.~~

(5) On all log dumps, adequate power for the method used for unloading shall be provided. All machines used for hoisting, reloading or lowering purposes shall be of approved design and sufficient power to control or hold the maximum load imposed in mid-air.

(6) Binders shall not be released from any load until an effective safeguard is provided.

(7) All mobile log handling machines shall be equipped with a means or mechanism which will prevent the logs from accidentally leaving the forks, and shall be used.

(8) The operator of the unloading machine shall have an unobstructed view of the unloading area or shall make certain no one is in the area where the logs are to be unloaded. Rear-view mirrors shall be installed on mobile log handling equipment to assist the operator in ascertaining that the area behind the machine is clear before backing up.

(9) Unloading lines shall be so arranged that it is not necessary for the workman to attach them on the pond or dump side of the load.

(10) Life rings with a minimum of ninety feet of one-fourth inch line with a minimum breaking strength of five hundred pounds attached, shall be provided at convenient points adjacent to water which is five feet or more in depth. Life rings shall be a minimum of thirty inches outside diameter and seventeen inches inside diameter and be maintained so as to retain a thirty-two pound positive buoyancy.)) (1) In cross-haul (parbuckle) or roll-on loading systems, the skid timbers must be strong enough to support the logs being loaded and long enough to remain in place while the log is being loaded.

(2) Loaders on cross-haul systems must work beyond the ends of the logs being loaded.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-587 ((Water dumps.)) Self-loading log trucks. (((1) All water dumps shall have brow logs except when logs are lifted from the load. If portable equipment is used, adequate stops shall be provided to prevent equipment from running off the dump.

(2) Where necessary for persons to walk alongside loads and equipment on trestles or fills, a minimum twenty-two inch wide walkway shall be provided, unless otherwise specified.

(3) All decks and plankways on log dumps must be kept in good repair and free from bark and other debris. Roadways shall not be inclined more than one inch to twelve inches across the driving surface.

(4) The use of small bridge over logs, planking or timbers, between regular foot logs, or walkways, which will not support the weight of at least three persons are prohibited. All regular foot logs shall be barked on upper side.

(5) Electric powered hoists using hand-held cord remote controls in grounded locations, shall be actuated by circuits operating at no more than twenty-four volts. All control switches shall be of the momentary contact type which requires continuous manual pressure for the hoist to operate.

(6) Roadbeds at log dumps shall be hard packed gravel, heavy planking, or equivalent material, and shall be of suffi-

cient width and even surface to insure safe operation of equipment.

(7) Where logs are unloaded on to rollways, sufficient space shall be provided between the top of the skids and the ground to clear the body of a person.

(8) When a brow log is used with a parbuckle system, all persons are prohibited from going between the brow log and the load of logs at any time.

(9) A positive safeguard shall be provided to prevent logs from leaving the loads on the side opposite the dump. Unloading lines, crotch lines or equally effective means shall be arranged and used in a manner to prevent any log from swinging or rolling back.

(10) All persons shall remain in the clear until all moving equipment has come to a complete stop.

(11) Logs shall not be unloaded by peaves or similar manual methods, unless means are provided and used that eliminate the danger from rolling or swinging logs.)) (1) A safe means of access and egress must be provided to the operator's loading work station.

(2) Self-loading log truck operators must not unload their own load unless a positive means of securing the logs is provided when binders and wrappers are removed.

(3) New self-loading log trucks purchased and put in operation after January 1, 1980, must be equipped with:

(a) A check valve installed on the jib boom; and

(b) A seat that is offset from the point of attachment of the boom. The seat and boom structure must rotate concurrently.

(4) The operator of a self-loading log truck must not heel the log over the operator's work station.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-589 ((Boom and rafting grounds.)) Log trucks—General. (((1) Breaking of log jams by heavy method is prohibited, except in river drive or when jam occurs away from mechanical means or the dump.

(2) Wooden pike poles shall be of continuous, straight-grained No. 1 material. Defective poles, blunt or dull pikes shall not be used. Conductive pike poles shall not be used where there is a possibility of coming in contact with energized electrical conductors.

(3) Stiff booms shall be made by fastening not less than two boom sticks together. The width of a stiff boom shall be not less than thirty-six inches measured outside to outside of the logs. The boom sticks shall be fastened together with not less than 4" x 6" cross ties, or cable lashings notched into the boom sticks may be used when stiff booms are exposed to heavy swells. Stiff booms shall be kept free of loose bark and shall be maintained in good repair.

(4) A walkway thirty-six inches wide with standard hand railing shall be provided from the shore end of stiff boom to shore.

(5) All sorting gaps shall have a substantial stiff boom on each side of gaps. Such stiff booms or walkways shall be planked over.

(6)(a) Boom sticks shall be reasonably straight with no protruding knots or loose bark. They shall be capable of sup-

porting above the water line at either end the weight of one worker and equipment or two hundred fifty pounds.

(b) Foot logs shall be reasonably straight with no protruding knots or loose bark and shall be of sufficient size to support above the water line at either end the weight of two workers and equipment or five hundred pounds.

(7) Boom sticks which have been condemned as unsafe shall be marked by three chopped crosses ten feet from the butt end, and such sticks shall not be used as boom sticks.

(8) Gaps between boom sticks shall not exceed twenty-four inches. All wire shall be removed from boom sticks and boom chains before they are re-used or hung in rafting stalls.

(9) When permanent cable swifters are used they shall be arranged so that they are within easy reach of rafter without rolling boom sticks on which they are fastened. When cables become hazardous to use because of jiggers, they shall be discarded.

(10) When floating donkeys or other power driven machinery is used on boom, it shall be placed on a raft or float with enough buoyancy to keep the deck of such raft or float well above water. Wherever persons walk, the deck of the raft or float shall be planked over with not less than two-inch planking, and kept in good repair.

(11) When doglines used in rafting, brailing or stowing logs become hazardous to use because of jiggers, they shall be discarded.

(12) Storing, sorting or any boom work, other than boom boat operations, shall require a minimum of two persons.

(13) Sufficient walkways and floats shall be installed and securely anchored, to provide safe passage for workers.

(14) Walkways alongside sorting gaps shall not be less than four feet wide. Other walkways shall be not less than twenty-two inches wide. (1) Prior to use, the operator must make a complete daily inspection of the truck and trailer with particular attention to:

- Steering apparatus;
- Lights and reflectors;
- Brake boosters;
- Brake hoses and connections;
- Reaches;
- Hitches (couplings);
- Bunks;
- Stakes;
- Bunk blocks.

The brakes must be tested before and after movement of the vehicle. The operator must submit a written list of necessary repairs to a person designated by the employer.

(2) Any defective parts that would make the vehicle unsafe to operate, must be replaced or repaired before the vehicle is placed in service.

(3) Motor vehicles used on roads not under the control of the state department of transportation, counties, or cities must be equipped with accessories necessary for a safe operation including:

- (a) Operable head lamps;
- (b) At least two tail lamps and brake lamps that emit a red light plainly visible from a distance of one thousand feet to the rear; and

(c) Two reflectors visible at night from three hundred fifty feet when directly in front of properly adjusted motor vehicle head lamps.

(4) The driver must do everything reasonably possible to keep the truck under control at all times and must not operate in excess of a speed at which the driver can stop the truck in one-half the visible distance.

(5) The area between the truck frame members, extending from the cab rearward as far as necessary to provide a safe work area, must be covered with suitable nonslip type material.

(6) Log trucks that have logs scaled at stations must have a platform on each side extending outward from the frame members at least eighteen inches, and must be eighteen inches long or as near to eighteen inches as the design of the truck permits. The treading surface of the platforms must be of nonslip material and the platform must be able to safely support a five hundred pound load.

(7) To protect the operator of vehicles from loads, there must be a substantial bulkhead behind the cab that extends up to the height of the cab.

(8) When at the dump or reload or where logs are scaled or branded on the truck, the logs must be scaled or branded before the binders are released.

(9) All vehicles, where vision of the operator in the direction of travel is impaired by the load or vehicle, must be moved only on a signal from a worker who has a clear view in the direction in which the vehicle is to be moved.

(10) Where a bridge or other roadway structure is posted with a load limit sign, log truck drivers or operators of other heavy equipment are prohibited from driving a load in excess of the posted limit over such a structure.

(11) All passengers must ride in the cab of the log truck.

(12) All trucks must keep to the right side of the road except where the road is plainly and adequately posted for left side travel.

(13) A method must be provided to ensure that the trailer will remain mounted on the truck while driving on highways or logging roads.

(14) When trucks are towed on any road, the person guiding the vehicle being towed must, by prearranged signals, govern the speed of travel. Vehicles must be towed at a reasonable speed and in a prudent manner. A tow cable or chain over fifteen feet in length must have a white flag attached at the approximate center, however, it is recommended that a rigid tow bar be used for this purpose.

(15) All rubber-tired motor vehicles must be equipped with fenders. Mud flaps may be used instead of fenders whenever the motor vehicle is not designed for fenders.

(16) All trucks must be equipped with doors with operable latches, or a safety bar or strap.

(17) Log trucks must not approach a landing while there is danger from incoming logs.

(18) While en route, the operator must check and tighten the wrappers/bindings whenever there is reason to believe that the wrappers/bindings have loosened or the load has shifted.

(19) Persons must not enter the area below a suspended load of logs.

(20) All trucks must be equipped with a means to protect the operator from inclement weather.



NEW SECTION

**WAC 296-54-58910 Log trucks—Brakes.** (1) Motor logging trucks and trailers must be equipped with brakes or other control methods that will safely stop and hold the maximum load on the maximum grade.

(2) All trucks with air brakes must be equipped with a readily visual or audible low air pressure warning device in good working order.

(3) An air loss rate out-of-service condition exists if an air leak is discovered and the reservoir pressure is not maintained when:

- (a) The governor is cut in;
- (b) Reservoir pressure is between 80 and 90 psi;
- (c) Engine is at idle; and
- (d) Service brakes are fully applied.

NEW SECTION

**WAC 296-54-58920 Log trucks—Trailer hitches and safety chains.** (1) All log truck and trailer combinations must be equipped with approved hitches (couplings) which must:

(a) Be capable of withstanding, in any direction, the potential stresses imposed;

(b) Be of a design which would not be rendered inoperative by dirt and debris and must be locked securely and positively; and

(c) Be attached to the truck frame or extension of the truck frame by means of not less than four machine bolts and nuts (120,000 psi material or better) inch diameter or larger, secured by lock nuts. Other means of attachment furnishing strength equal to or greater than the above may be accepted if of approved design and application.

(2) Hitches (couplings) or parts that are broken, cracked, excessively worn, or otherwise defective hitches must be repaired before use.

(3) Each log truck and trailer combination or log truck and independent trailer combination must be provided with two or more safety chains or cables with a rated breaking strength of at least the gross weight of the towed vehicle, and:

(a) Able to hold the trailer in line in case of failure of the hitch assembly;

(b) Permanently attached to the frame of the truck or an extension of the truck frame;

(c) Form a separate continuous connection between the truck frame or extension of the truck frame and the reach or trailer;

(d) Attached not more than twelve inches from the eye of the reach or trailer;

(e) Short enough to prevent the trailer reach or tongue from contacting the ground in the event of disengagement from the truck;

(f) Designed to provide a positive connection that cannot be made inoperative by any condition of use or exposure.

(4) Safety chains and cables must be replaced immediately if they contain cut, cracked, or excessively worn links, or frayed, stranded, or otherwise defective wire rope.

(5) Butt welding of safety chain links to reach truck frame, or extension of truck frame is prohibited.

(6) Repairs to safety chains, such as cold shuts, are prohibited.

(7) Frames must not be welded or drilled into if the manufacturer recommends against it.

NEW SECTION

**WAC 296-54-58930 Log trucks—Reaches and bunks.** (1) Log trailers must be connected to tractors by reaches of a size and strength to withstand all normal imposed stresses.

(2) Hand-holds or other facilities must be installed on trailer tongues or trailer reaches if workers are required to manually assist in coupling them to their tractors or trucks.

(3) The reaches of unloaded trailers being towed must have and use a minimum one-inch pin near the end or an equally effective means to prevent pulling or stripping through the tunnel.

(4) Reach locks, clamps, or tighteners must be of the type that will securely lock the reach in the tunnel.

(5) All reaches must be the maximum size usable in the tunnel of a trailer.

(6) Altering a trailer tunnel to permit reduction of reach size is prohibited.

(7) Every truck or truck and trailer engaged in transporting logs loaded lengthwise must be equipped with bunks and chock blocks or stakes.

(8) Log bunks or any part of a bunk assembly bent enough to cause bunks to bind, must be straightened. Bunks must be sharp enough to prevent logs from slipping.

(9) All trucks with swivel bunks must have bunk locks or an equivalent system of holding the bunks in place while loading logs.

(10) The bunks or bolsters of any truck or trailer must be either curved upward or straight. Bunks with ends lower than their centers are prohibited.

(11) Enough clearance must be maintained between the bunk and the bunk rider to prevent bunk binding.

(12) Trailer bunks must have a false or tilt bunk. The channel of the bunk must be kept reasonably free of debris.

(13) Stakes and stake extensions must be installed and maintained so that the angle between bunks and stakes (and extensions if used) do not exceed ninety degrees when loaded.

(14) Frames, bunks, and running gear of log trucks must be maintained free of cracks, breaks and defects. If defects are found, they must be immediately repaired or the part replaced.

NEW SECTION

**WAC 296-54-58940 Log trucks—Stakes, stake extensions and chock blocks.** (1) Trucks and trailers must be equipped with bunk stakes or chock blocks of strength and sized material to perform their intended function.

(2) All stakes, stake extensions, and bunks installed on log trucks and trailers, together with the means to secure and lock the stakes in hauling position, must be designed and constructed of materials of such size and dimension that will withstand operational stresses without yield or permanent set.

(3) Stake extensions made from axle shafts or other brittle material are prohibited.

(4) The linkage used to support the stakes or chocks must be of adequate size and strength to withstand the maximum imposed impact load. Molles or cold shuts are prohibited in chains or cables used for linkage.

(5) Stake chains or cables must be equal to or better than "high test" steel chain or "plow steel" wire rope, and of a size necessary to meet the requirements of a safe working load of at least six thousand six hundred pounds. (3/8-inch alloy chain, 7/16-inch high test chain of welded link construction, and 5/8 inch improved plow steel cable in 6x19 and 6x37 construction meet this requirement.)

(6) Bunk chains containing cut, cracked, excessively worn, or otherwise defective links, must be immediately removed from service. Molles, cold shuts (welded or otherwise), or bolts are not permitted in bunk chains.

(7) The use of frayed, stranded, or otherwise defective wire rope for chock block cable or stake straps is prohibited.

(8) Only chain links approved for welding (and properly welded) or approved repair links that will develop strength equivalent to the chain, are permissible for repairs or attachments to stake chains or binder chains.

(9) Chains or cables used to secure stakes or chock blocks must be secured in a way that does not require hammering directly on them to release the stakes or blocks. Key-hole slots and similar methods of securing chains are prohibited.

(10) Deformed or defective stakes, stake securing or stake locking devices, or bunks must be immediately repaired or removed from service.

(11) Each stake and chock used to trip loads must be constructed so that the tripping mechanism is activated on the side opposite the release of the load.

(12) Trip type stakes must be properly secured and locked in a manner that will prevent them from accidentally tripping or falling.

#### NEW SECTION

**WAC 296-54-58950 Log trucks—Wrappers and binders.** (1) On log trucks equipped with stakes, the following requirements must apply:

(a) In the hauling of a one log load, one wrapper chain or cable must be required and secured to the rear bunk. The log must be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper secured to the front bunk is optional.

(b) In the hauling of two log loads, not less than two wrapper chains or cables must be used to secure the load. The logs must be properly blocked to prevent them from rolling or shifting.

(c) On loads consisting of three or four logs not over forty-four feet in length, the load must be secured by not less than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers must be secured with extra wrappers. If any log is over forty-four feet in length, the load must be secured by not less than three properly spaced wrappers.

(d) Loads consisting of five or more logs, when the logs are all seventeen feet or less in length, must be secured by not less than two properly spaced wrappers. Loads consisting of five or more logs, when any log is over seventeen feet in length, must be secured by not less than three properly spaced wrappers.

(2) On log trucks equipped with chock blocks the following requirements must apply:

(a) In the hauling of a one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log must be properly blocked in a manner to prevent it from rolling or shifting.

(b) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subsection (1)(c) and (d) of this section.

(3) In the case of short logs loaded crosswise, the following method of securing the load must be used if the truck or trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off:

Not less than two chock blocks must be used at each open end of the vehicle and the load must be held with at least two wrapper chains or cables. The wrappers must be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake must be either rigidly connected to the bed of the truck or trailer or must be placed in a tight-fitting socket at least 12 inches in depth. Other means furnishing equivalent security may be acceptable.

(4) When two wrappers are required, they must be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder must be applied within six feet of the front and rear bunks.

(5) To properly secure short logs, binders must be placed near the end, not less than twelve inches from the end of the log.

(6) Log(s) loaded on top or in outside saddles of a load must not be transported unless secured by at least two wrapper chains or cables, one of which must be placed near each end of such log.

(7) All wrappers and binders must be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(8) All wrapper chains or cables, except in the case of one log load, must entirely surround the load. This does not apply to gut-wrappers.

(9) Gut-wrappers, when used, must be adjusted so as to be tightened by, but not carry the weight of the logs above them.

(10) A warning must be given before throwing wrappers over the load and care must be taken to avoid striking other persons with the wrapper.

(11) Each log not contained within the stakes must be secured with at least two wrappers before the truck leaves the vicinity of the landing/loading area.

(12) While moving logs, poles, or log chunks within sorting or mill yards, that could roll or slide off the truck due to snow or ice conditions, or the logs or log chunks do not extend beyond the stakes, at least two wrappers and binders must be used regardless of the height of the load.

(13) Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards must have a minimum breaking strength of not less than fifteen thousand pounds and must be rigged so that it can be safely released.

Note: 3/8-inch hi-test steel chain, 7/16-inch improved plow steel wire rope of 6x19 or 6x37 construction, or materials having equivalent strength, when in compliance with the requirements herein contained, will be acceptable. (The diameter of the wire rope is immaterial as long as it meets the minimum breaking strength requirements.)

Note: Nylon straps and ratchet binders having an equivalent breaking strength may be used when securing loads on (hay rack) log hauling systems.

(14) A loaded logging truck required to have wrappers by this section, may be moved within the loading area without wrappers only if such movement does not present a hazard to workers.

(15) For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(16) All loose ends of wrapper chains or cables must be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(17) Binders for securing wrappers on logging trucks must be fitted with hooks of proper size and design for the wrapper chain being used.

(18) Wrappers must be removed from service when any of the following conditions exist:

- (a) Excessively worn links on chains;
- (b) Deformed or stretched chain links;
- (c) Cracked chain links; or
- (d) Frayed, stranded, knotted, or otherwise defective wire rope.

(19) Pipe extension handles (swedes) for tightening or securing binders must be no longer than thirty-six inches. Care must be taken that a sufficient amount of the pipe extends over the binder handle.

(20) Defective binders must be immediately removed from service.

Note: See Figures 25 through 35 for illustrations of placement and number of wrappers.

## PLACEMENT AND NUMBER OF WRAPPERS One Log Load

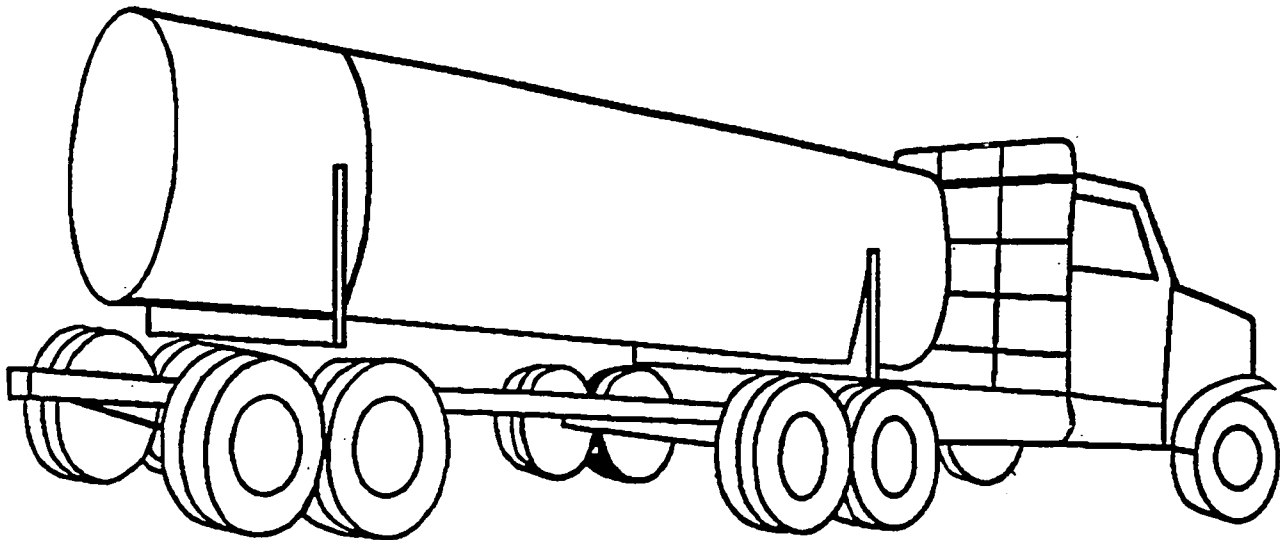


Figure 25: One Log Load

### Two Log Load

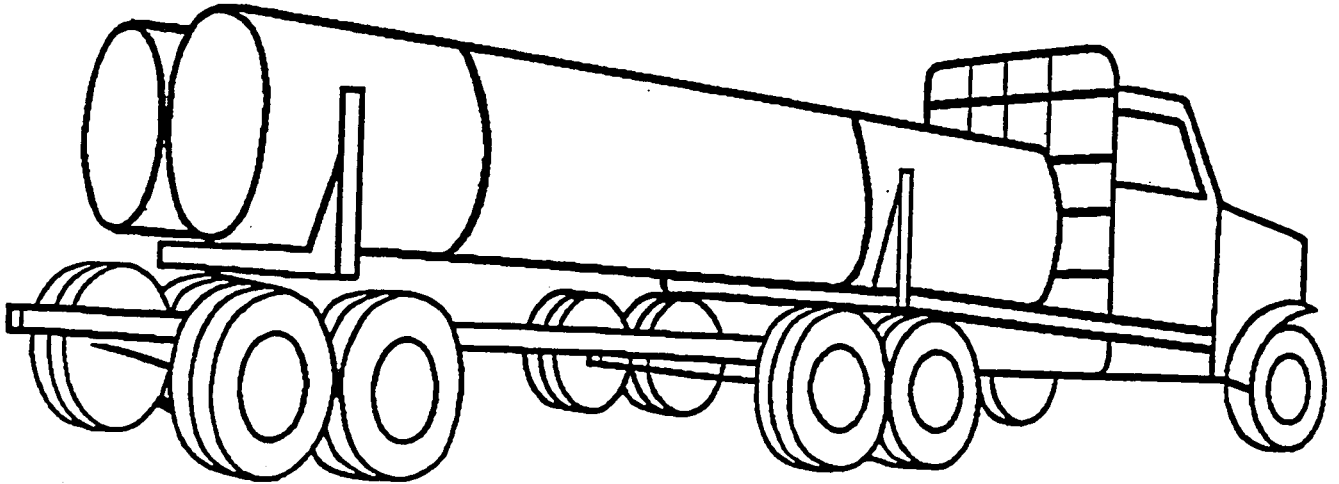


Figure 26: Two Log Load

### Three or Four Log Load 44 Ft. or Less

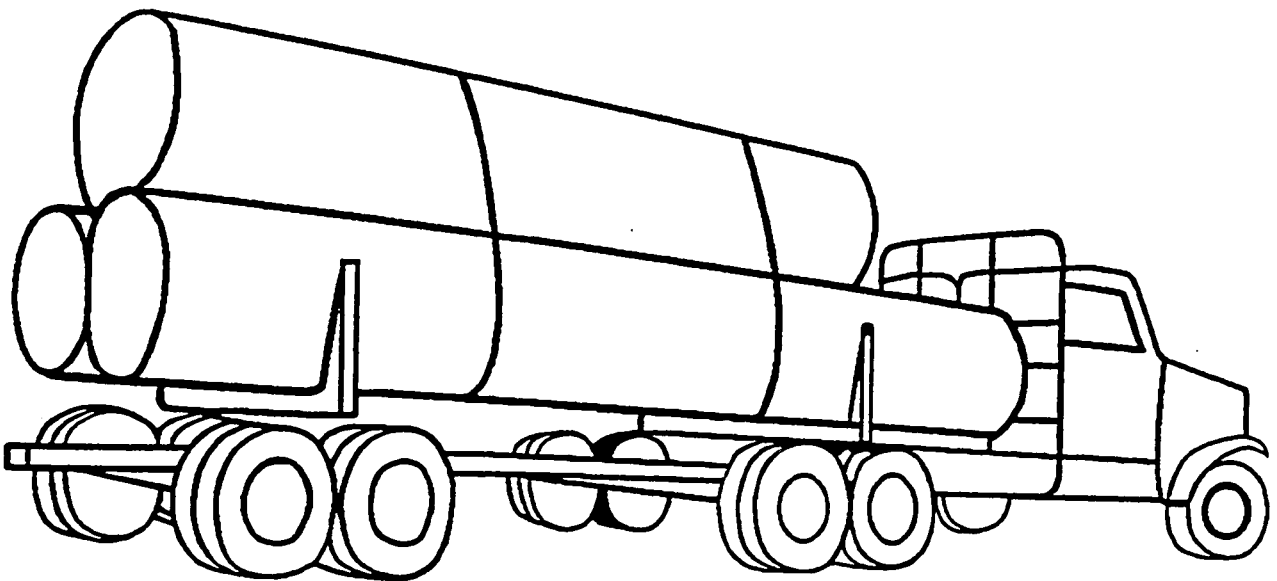


Figure 27: Three or Four Log Load 44 feet or less

PERMANENT

**Three or Four Log Loads More Than 44 Feet**

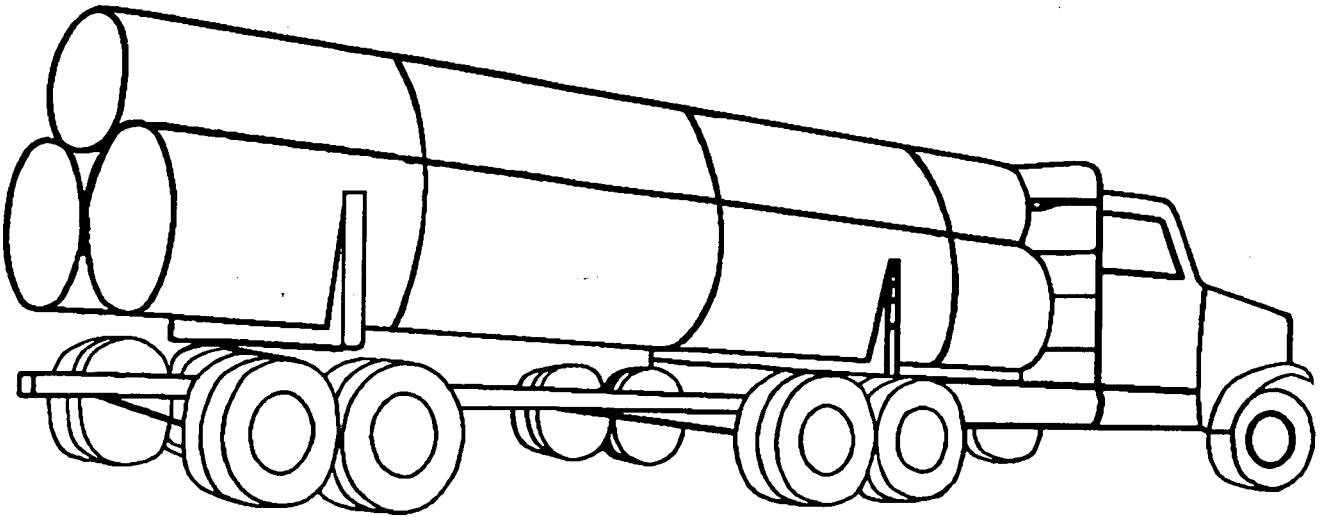


Figure 28: Three or Four Log Loads more than 44 feet

**Five or Six Log Load All Logs 17 Feet or Less**

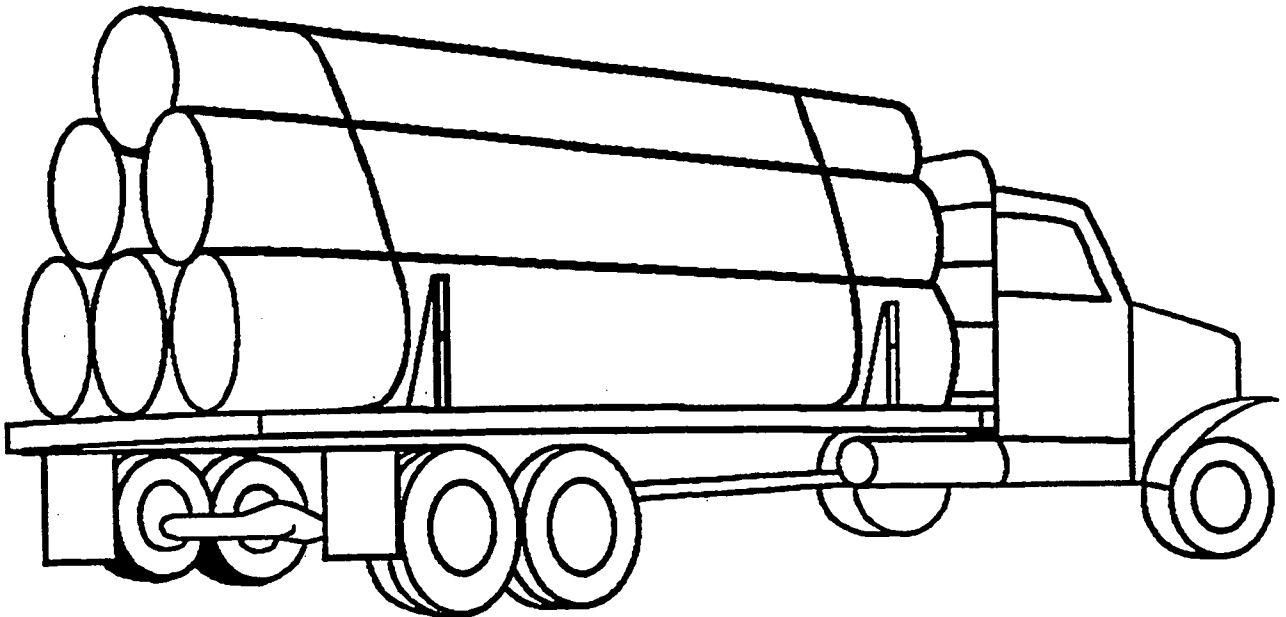


Figure 29: Five or Six Log Load All Logs 17 feet or less

PERMANENT

**Seven or More Log Load All Logs 17 Feet or Less**

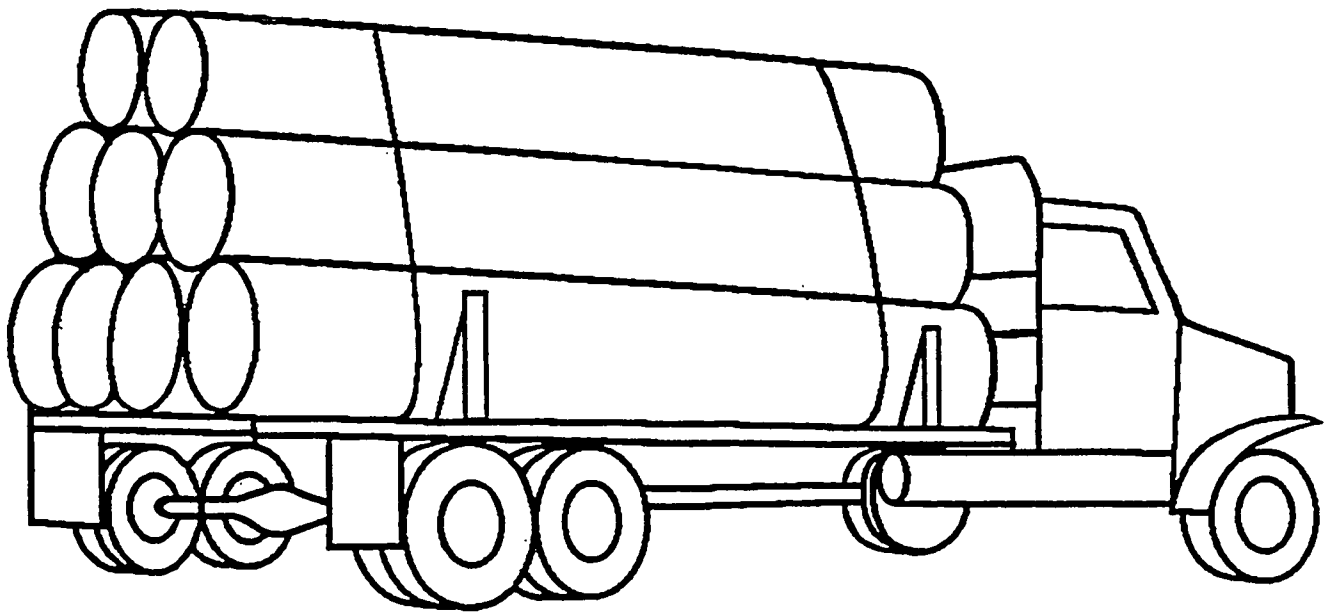


Figure 30: Seven or More Log Load All Logs 17 feet or less

**Five or More Log Load if Any Logs Are More Than 17 Feet**

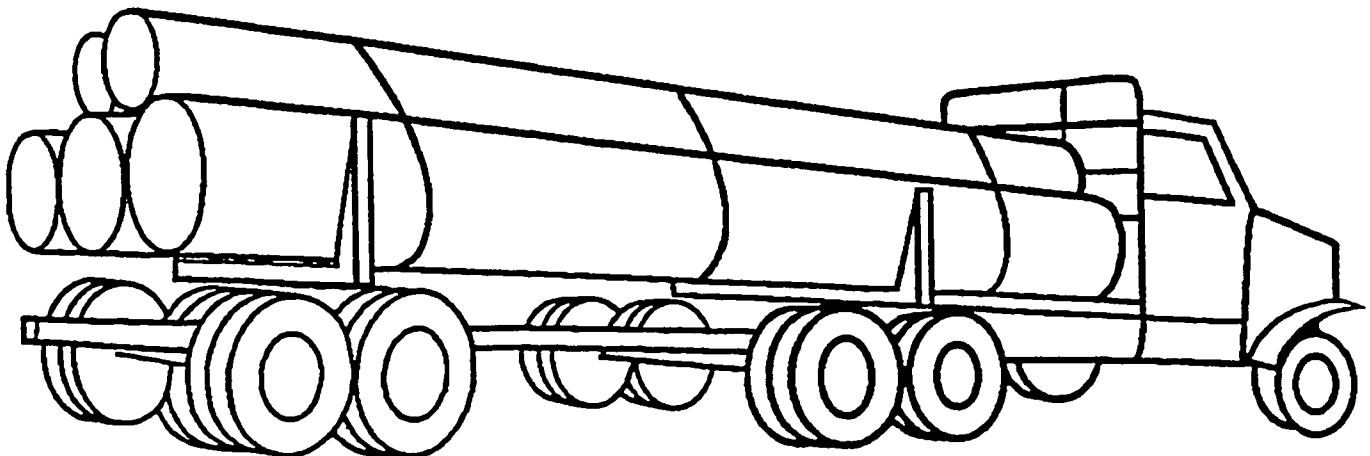


Figure 31: Five or More Log Load if any Logs are more than 17 feet

PERMANENT

### Proper Support for Logs

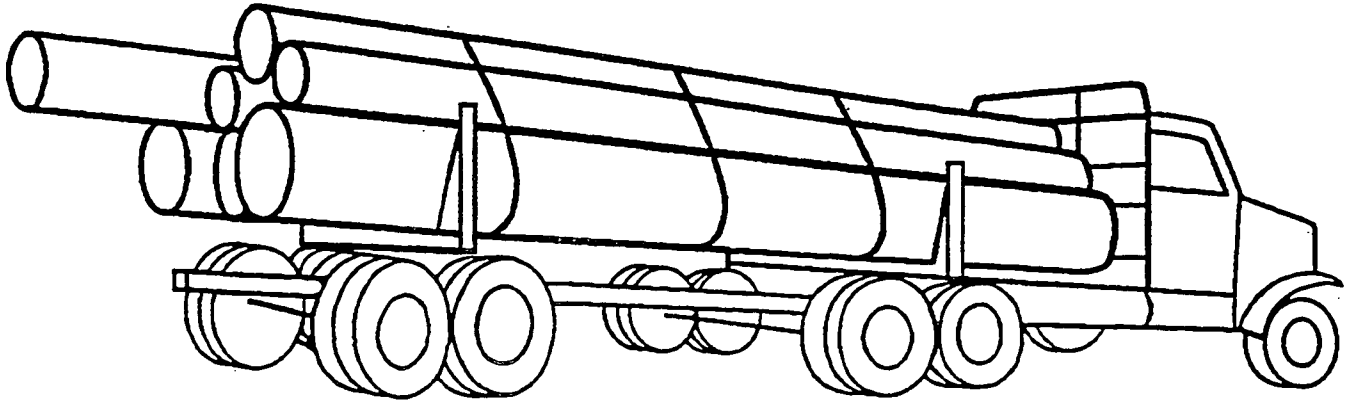


Figure 32: Proper Support for Logs

### Outside Logs or Top Logs

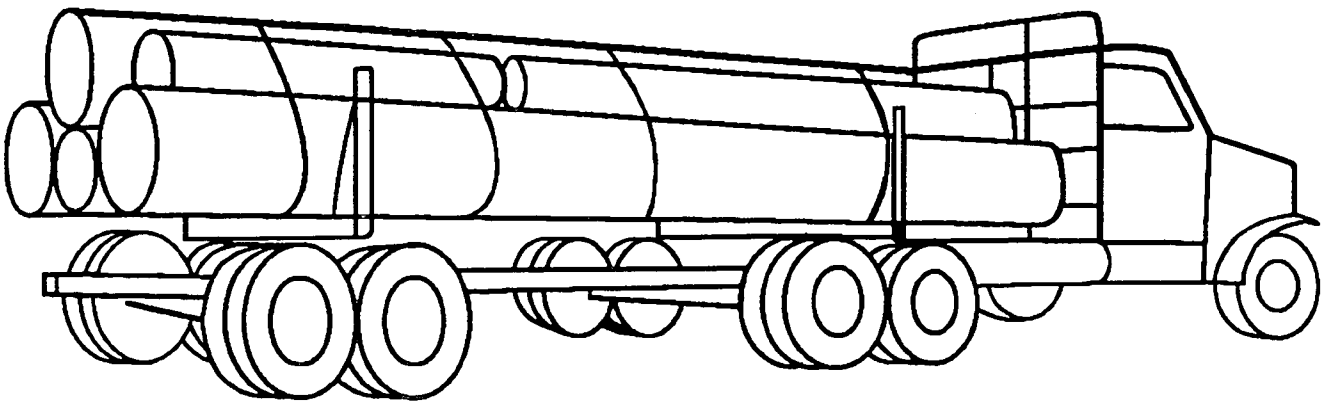


Figure 33: Outside Logs or Top Logs

PERMANENT

### A Wrapper Must Be Near Each Bunk

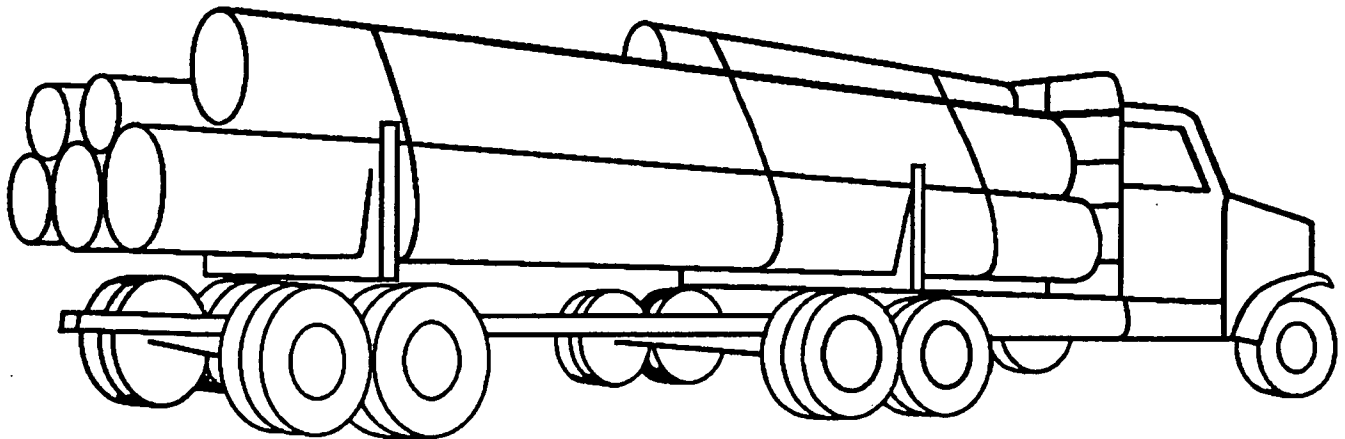


Figure 34: A Wrapper must be near each bunk

### Short Logs Loaded Crosswise

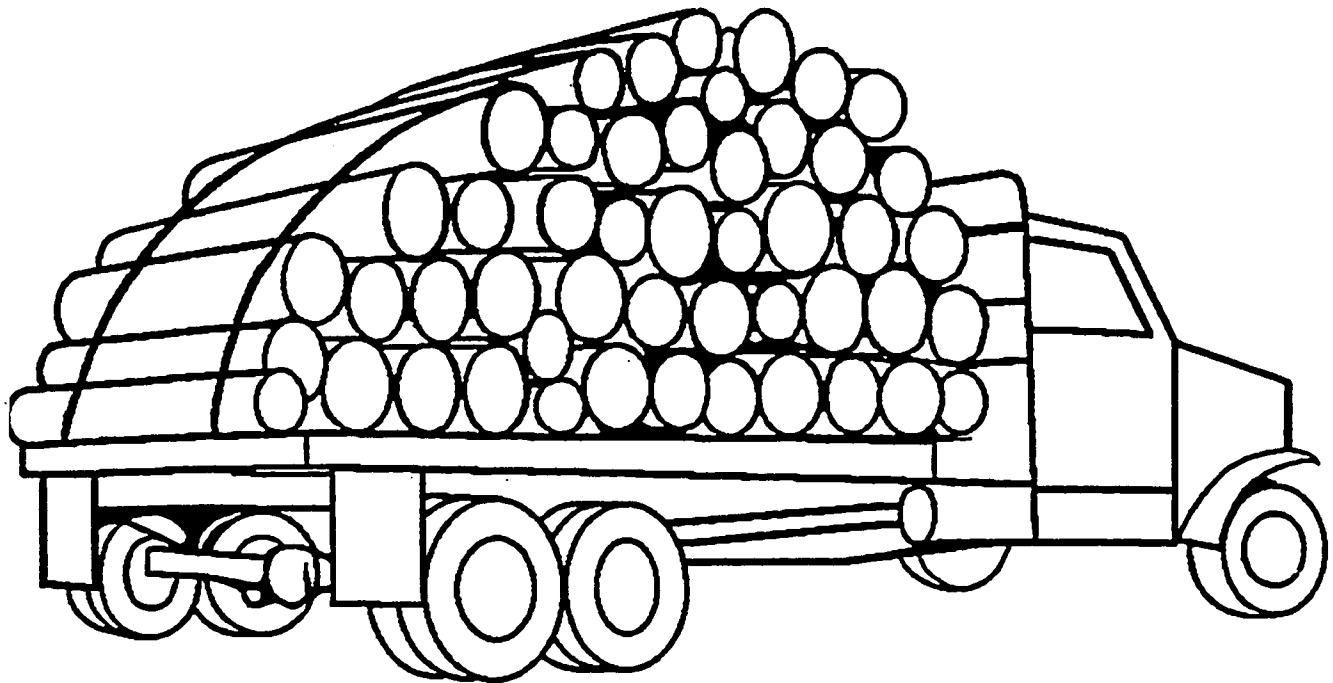


Figure 35: Short Logs Loaded Crosswise

Note: All loads of logs on logging trucks equipped with chock blocks instead of stakes, must have at least one additional wrapper over and above the requirements for trucks equipped with stakes, except on one and two log loads and trucks with short logs loaded crosswise.

#### NEW SECTION

**WAC 296-54-58960 Log trucks—Miscellaneous requirements.** (1) A truck wheel must not have more than twenty-five percent of the lugs missing or defective.

(2) All truck wheels must be maintained free of cracks, breaks, or defects.

PERMANENT



(3) Windshields on all equipment must have windshield wipers in good working condition.

(4) Mule train trailers must have a platform on the trailer tongue at least twelve inches by twenty-four inches made of nonslip material and able to support at least three hundred pounds. The platform must be self-cleaning.

(5) Trailer loading and unloading straps, links, or chains must be fastened securely to the trailer frame and used in hoisting the trailer. The connections must be maintained in good condition and not be attached to the trailer bunk. Using molles for this purpose is prohibited.

(6) When unloading trailers from trucks, the trailers must be hoisted clear, the truck driven forward a safe distance, and the trailer lowered to within one foot of the roadway before persons approach the trailer or reach.

(7) Trailer hoisting or unloading straps must be constructed and installed in a manner enabling the loading or unloading machine to engage the strap without manual personal contact.

(8) All motor vehicles must be equipped with a horn that is audible above the surrounding noise level. The horn must be sounded before operating the vehicle in reverse gear and when necessary to alert employees.

#### NEW SECTION

##### **WAC 296-54-58970 Log trucks—Steered trailers.**

Steered trailers, not controlled from the truck cab, must be designed, constructed, and operated as follows:

(1) A secure seat with substantial foot rest must be provided for the operator at the rear of the bunk. Any arrangement that permits the operator to ride in front of the bunk is prohibited unless a false bunk or other adequate protection is provided for the operator.

(2) The seat for the operator must be so arranged that he has an unobstructed exit from both sides and the rear.

(3) The bunk support must be so constructed that the operator has a clear view ahead at all times.

(4) Adequate means of communication must be provided between the operator and the truck driver.

(5) Eye protection and respirator must be provided for the operator.

(6) The trailer must be equipped with fenders or splash plates to protect the operator from mud and dust so far as possible.

(7) If used during periods of reduced visibility on roads not under the control of the state department of transportation, counties, or cities, the trailer must be equipped with head, tail, turn and stop lights.

#### AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

**WAC 296-54-591 ((Boats and mechanical devices on waters.)) Stationary log truck trailer loading. (((1) Prior to starting the boat motor, any spilled fuel shall be removed and vapors shall be exhausted from any area in which they may accumulate.**

~~(2) The bilge area shall be kept clean and oil, grease, fuel, or highly combustible materials shall not be allowed to accumulate.~~

~~(3) Adequate ventilation equipment shall be provided and used for the bilge area to prevent the accumulation of toxic or explosive gases or vapors.~~

~~(4) Adequate ventilation equipment shall be provided and used for the cabin area on enclosed cabin type boats to prevent an accumulation of harmful gases or vapors.~~

~~(5) Deck and cabin lighting shall be provided and used where necessary to provide safe levels of illumination aboard boats. Boats operated during the period from sunset to sunrise, or in conditions of restricted visibility, shall display navigation lights as required by the United States Coast Guard. Searchlights or floodlights shall be provided to facilitate safe navigation and to illuminate working or boarding areas adjacent to the craft.~~

~~(6) On craft used by workers wearing calked shoes, all areas where the operator or workers must stand or walk shall be made of or be covered with wood or other suitable matting or nonslip material and such covering shall be maintained in good condition.~~

~~(7) Each boat shall be provided with a fire extinguisher and life ring with at least fifty feet of one fourth inch line attached. On log brones, boomscooters, or other small boomboats where all occupants are required to wear life saving devices and a life ring would present a tripping hazard, the life ring may be omitted.~~

~~(8)(a) Along docks, walkways, or other fixed installations on or adjacent to open water more than five feet deep, approved life rings with at least ninety feet of one fourth inch line attached, shall be provided. The life rings shall be spaced at intervals not to exceed two hundred feet and shall be kept in easily visible and readily accessible locations.~~

~~(b) When employees are assigned work at other casual locations where exposure to drowning exists, at least one approved life ring with at least ninety feet of line attached, shall be provided in the immediate vicinity of the work assigned.~~

~~(c) Where work is assigned over water where the vertical drop from an accidental fall would exceed fifty feet, special arrangements shall be made with and approved by the department of labor and industries prior to such assignment.~~

~~(d) Lines attached to life rings on fixed installations shall be at least ninety feet in length, at least one fourth inch in diameter, and have a minimum breaking strength of five hundred pounds. Similar lines attached to life rings on boats shall be at least fifty feet in length.~~

~~(e) Life rings must be United States Coast Guard approved thirty-inch size.~~

~~(f) Life rings and attached lines shall be maintained to retain at least seventy-five percent of their designed buoyancy and strength.~~

~~(9) Log brones, boomscooters, and boomboats shall not be loaded with personnel or equipment so as to adversely affect their stability or seaworthiness.~~

~~(10) Boats shall not be operated at an excessive speed or handled recklessly.)~~ (1) All loading devices must be designed, constructed and maintained so as to have a five to one safety factor for the rated load capacity.

(2) Loaders must be high and wide enough so they can safely load the maximum-sized trailers they are expected to handle without hanging up or striking the equipment.

(3) Electric-powered trailer loading devices must be equipped with a switch or device that will safely limit the upper direction of travel of the load line.

(4) Electric motors used for hoisting must be equipped with approved overload switches or breakers.

(5) Electrical switch controls must not exceed twenty-four volts. All control switches must be the momentary-contact type that require continuous manual pressure for the hoist to operate.

(6) Pendant control switches must be suspended by a chain or other suitable device that will prevent placing a strain on the electrical cable.

(7) Pendants must be installed so that the control switch does not touch the ground when retracted.

(8) All electrical equipment must be weatherproof-type or adequately protected from the weather, and must meet or exceed the requirements of the National Electrical Code as promulgated by the director of the department of labor and industries pursuant to RCW 19.28.060.

(9) Trailer loaders, except A-frames or bridge crane, must be equipped with reach guides or devices that will keep the reach in proper alignment. A tag rope or other safe guidance device must be used to guide trailers being loaded by an A-frame loader.

(10) Access roads and the area around the trailer loading devices must be kept free of standing water and debris and maintained in good repair.

(11) The maximum capacity load to be lifted must be posted in a conspicuous location where it can be easily seen by any person operating the hoist.

(12) Trailer loading equipment must be periodically inspected at least every thirty days and must be maintained in good repair. A written report must be made and signed by the person making the inspection and kept on file by the company for twelve months.

(13) The employer must conduct an annual lifting test on each loading device and maintain a written record of the test.

(a) The written record must contain:

- The date of the test;
- The name of person conducting the test;
- The amount of weight lifted; and
- The results kept in the office of the employer or at the site.

(b) The test weight must be at least one hundred twenty-five percent of the maximum rated load and a maximum of one hundred thirty percent of the maximum rated load.

(14) Each drum must be designed and arranged in such a manner that the line will maintain lead and spool evenly without chafing, crossing, or kinking.

(15) A braking system must be installed that has the ability to safely brake and hold one and one-half times weight of the full rated load.

(16) When trailers are to be loaded after dark, sufficient lights must be provided for a safe operation.

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

WAC 296-54-593 ((Dry land sorting and storage))  
Log unloading, booms, and rafting grounds—Storage and sorting areas—General. ~~(((1) Unauthorized foot and vehicle traffic shall not be permitted in the sorting or storage area:~~

~~(2) Logs shall be stored in a safe and orderly manner. Roadways and traffic lanes shall be kept clear of protruding ends of logs and debris.~~

~~(3) Dry deck log storage areas shall be kept orderly and maintained in a condition conducive to safe operation of mobile equipment. Roadways and walkways shall have a smooth hard packed surface wide enough to permit a safe operation. Bark, mud, and other debris shall not be allowed to accumulate to the extent it constitutes a hazard to the operation.~~

~~(4) At log dumps, sorting and storage areas, an effective means shall be provided and used to control dust.~~

~~(5) Only an authorized person shall operate or ride any lift truck, log stacker, or log unloader.~~

~~(6) Signaling log unloader operators at dry deck areas by throwing bark or chips in the air is prohibited. Hand, horn signals or other safe, effective means shall be used at all times.~~

~~(7) Unnecessary talking to operator while engaged in operating controls of log stacker or log unloader is forbidden.~~

~~(8) Lift forks and arms of unloading machines shall be lowered to their lowest position, and all equipment brakes set prior to the operator leaving the machine unattended.~~

~~(9) Log unloaders or stackers shall not be moved about the premises for distances greater than absolutely necessary with the lift extended above the drivers head or with loads lifted higher than is necessary for vision.~~

~~(10) When truck drivers are out of the cab, they shall be in the clear, and in view of the log unloader before the lift forks are moved under the load and the lift is made.~~

~~(11) Where logs are offloaded onto a dry deck by means of unloading lines, a mechanism shall be used which is self-releasing. Employees shall be prohibited from ascending dry decks to release unloading lines.~~

~~(12) Persons shall not position themselves in the hazardous area near or under loads of logs being lifted, moved or suspended.~~

~~(13) Jackets or vests of fluorescent or other high visibility material shall be worn by persons working on dry land log storages. Hard hats shall be of a contrasting color or shall have high visibility tape affixed thereon.~~

~~(14) Log unloaders and log stackers designed in a manner whereby logs being handled may jeopardize the safety of the operator shall be provided with overhead protection and any other safeguards needed to afford adequate protection.~~

~~(15) Log unloaders and log stackers shall be equipped with a horn or other audible warning device. If vision is impaired or restricted to the rear, the warning device shall be sounded before operating the vehicle in reverse gear and sounded intermittently during the entire backing operation. The warning device shall be maintained in an operative condition.~~

(16) Each log handling machine shall be equipped with a braking system which is capable of stopping and holding the machine with maximum load on any grade on which it may be required to work.

(17) A limit stop, which will prevent the lift arms from over traveling, shall be installed on electric powered log unloaders.

(18) Shear guards shall be installed on unloading machines and similar types of equipment on which the arms pivot and move alongside the operator creating a pinch point at that location.

(19) All forklift type machines shall be equipped with grapple arms and the arms shall be used whenever logs are being moved.

(20) When log trucks are loaded by the use of a log stacker and the lay of any log is higher than the stakes, the log stacker shall remain against the completed load, or other suitable protection provided, to prevent the logs from falling until at least two wrappers and binders have been applied.

(21) All binders and wrappers shall remain on the load until an approved safeguard has been provided to prevent logs from rolling off the side of the truck or trailer when binders are released. A shear log, or equivalent means, shall be provided to ensure the log truck will be stationed close enough to the wrapper rack so that a log cannot fall between the log truck and the wrapper rack when removing binders and wrappers. At least one binder shall remain secured while relocating or tightening other binders. Crotch lines, forklifts, log stackers, log unloaders, or other effective means shall be used for this purpose.

(22) An extra wrapper or metal band of equal strength shall be placed to hold the logs when it is necessary to remove a wrapper to prevent it from being fouled by the unloading machine.

(23) Machines of the type having arms which block the regular exit when in the up position, shall have an emergency exit installed.

(24) Seat provided. Riding on any part of a log handling machine except under the canopy guard is prohibited.

(25) Identification tags shall not be applied or pulled unless logs are resting in a stationary place, such as bunks, cradles, skids, or sorting tables.

(26) No person shall approach the immediate vicinity of a forklift type log handling machine without first notifying the operator of the person's intention and receiving an acknowledgement from the operator.

(27) When forklift type machines are used to load, unload, or handle trailers, a positive means of holding the lifting attachment to the fork shall be installed and used.

(28) When dry land log dumps use unloading methods similar to those of water dumps, the safety standards for water dumps shall apply to dry land dumps.

(29) When logs are handled between the hours of sunset and sunrise or other periods of poor visibility, illumination shall be provided consistent with chapter 296-62 WAC, general occupational health standards, pertaining to illumination.

(30) Air operated stake releases shall be in conformity with the following requirements:

(a) The air supply shall be taken from the "wet" air reservoir or from the accessory air line to a spring loaded, normally closed control valve.

(b) The control valve shall be located in the cab, positioned so that it is accessible only from the operator's position.

(c) The control valve shall be fitted with a spring loaded cover or be otherwise guarded against inadvertent operation.

(d) A separate air line shall extend from the control valve to the tractor and trailer stake release chambers. The air line shall be clearly identified or installed in such a manner as to preclude it from being mistaken for the service or emergency air line.

(31) Each deck shall be constructed and located so it is stable and provides each employee with enough room to safely move and work in the area.) (1) At least two persons must be present for all storing, sorting, or boom work, except for boomboat operations.

(2) In operations where regular logging machinery, rigging, etc., is used, the applicable rules apply.

(3) The employer must provide and ensure the use of artificial lights where employees work between the hours of sunset and sunrise. The lights must be located in a manner that will:

- Be reasonably free of glare;
- Provide uniform distribution of illumination; and
- Avoid sharply defined shadows.

(4) On all log dumps, adequate power for the unloading method used must be provided. All machines used for hoisting, reloading, or lowering must be of an approved design and have enough power to control or hold the maximum load imposed in mid-air.

(5) Methods of unloading logs must be arranged and used in a manner to provide full protection to all employees.

(6) Binders must not be released from any load until an effective safeguard is provided.

(7) All mobile log handling machines must be equipped with a means to prevent the logs from accidentally leaving the forks, and it must be used.

(8) The operator of the unloading machine must have an unobstructed view of the unloading area or must make certain no one is in the area where the logs are to be unloaded. Rear-view mirrors must be installed on mobile log handling equipment to assist the operator in determining that the area behind the machine is clear before backing up.

(9) Unloading lines must be arranged so that it is not necessary for an employee to attach them on the pond or dump side of the load.

(10) Life rings with a minimum of ninety feet of 1/4-inch line with a minimum breaking strength of five hundred pounds attached, must be provided at convenient points adjacent to water that is five feet or more in depth. Life rings must be a minimum of thirty inches outside diameter and seventeen inches inside diameter and be maintained so as to retain a thirty-two pound positive buoyancy.

#### NEW SECTION

**WAC 296-54-59310 Log unloading, booms, and rafting grounds—Water dumps.** (1) All water dumps must

have brow logs except when logs are lifted from the load. If portable equipment is used, adequate stops must be provided to prevent equipment from running off the dump.

(2) Where necessary for employees to walk alongside loads and equipment on trestles or fills, a minimum twenty-two inch wide walkway must be provided, unless otherwise specified.

(3) All decks and plankways on log dumps must be kept in good repair and free from bark and other debris. Roadways must not be inclined more than one inch to twelve inches across the driving surface.

(4) The use of small bridge-over logs, planking, or timbers between regular foot logs, or walkways, which will not support the weight of at least three persons are prohibited. All regular foot logs must be barked on the upper side.

(5) Electric-powered hoists using hand-held cord remote controls in grounded locations must be actuated by circuits operating at no more than twenty-four volts. All control switches must be the momentary contact type that require continuous manual pressure for the hoist to operate.

(6) Roadbeds at log dumps must be hard-packed gravel, heavy planking, or equivalent material, and must be of sufficient width and even surface to ensure safe operation of equipment.

(7) Where logs are unloaded on to rollways, enough space must be provided between the top of the skids and the ground to clear the body of a person.

(8) When a brow log is used with a parbuckle system, all persons are prohibited from going between the brow log and the load of logs at any time.

(9) A positive safeguard must be provided to prevent logs from leaving the loads on the side opposite the dump. Unloading lines, crotch lines, or other equivalent means must be arranged and used in a manner to prevent any log from swinging or rolling back.

(10) All employees must remain in the clear until all moving equipment has come to a complete stop.

(11) Logs must not be unloaded by peaves or similar manual methods, unless means are provided and used that eliminate the danger from rolling or swinging logs.

#### NEW SECTION

**WAC 296-54-59320 Log unloading, booms, and rafting ground—Boom and rafting grounds.** (1) Breaking of log jams by peavy method is prohibited, except in river drive or when a jam occurs away from a mechanical means or the dump.

(2) Wooden pike poles must be made of continuous, straight-grained No. 1 material.

(a) Defective poles, blunt or dull pikes must not be used.

(b) Conductive pike poles must not be used where there is a possibility of coming in contact with energized electrical conductors.

(3) Stiff booms must be made of at least two boom sticks and must be at least thirty-six inches wide measured outside to outside of the logs. The boom sticks must be fastened with at least 4" x 6" cross ties, or cable lashings notched into the boom sticks may be used when stiff booms are exposed to

heavy swells. Stiff booms must be kept free of loose bark and maintained in good repair.

(4) A walkway thirty-six inches wide with standard hand railing must be provided from the shore end of stiff boom to shore.

(5) All sorting gaps must have a substantial stiff boom on each side of gaps. Such stiff booms or walkways must be planked over.

(6) Boom sticks must be reasonably straight with no protruding knots or loose bark. They must be able to support above the water line at either end the weight of one employee and equipment or two hundred fifty pounds.

(7) Foot logs must be reasonably straight with no protruding knots or loose bark and large enough to support above the water line at either end the weight of two employees and equipment or five hundred pounds.

(8) Unsafe boom sticks must be marked by three chopped crosses ten feet from the butt end, and those sticks must not be used as boom sticks.

(9) Gaps between boom sticks must not exceed twenty-four inches. All wire must be removed from boom sticks and boom chains before they are re-used or hung in rafting stalls.

(10) When permanent cable swifters are used, they must be arranged so that they are within easy reach of the rafter without rolling the boom sticks on which they are fastened. When cables become hazardous to use because of jagers, they must be discarded.

(11) When a floating donkey or other power-driven machinery is used on a boom, it must be placed on a raft or float with enough buoyancy to keep the deck of the raft or float well above water. Wherever employees walk, the deck of the raft or float must be planked over with at least two inch planking, and kept in good repair.

(12) When doglines used in rafting, brailing, or stowing logs become hazardous to use because of jagers, they must be discarded.

(13) Sufficient walkways and floats must be installed and securely anchored to provide safe passage for employees.

(14) Walkways alongside sorting gaps must be at least four feet wide. Other walkways must be at least twenty-two inches wide.

#### NEW SECTION

**WAC 296-54-59330 Log unloading, booms, and rafting grounds—Boats and mechanical devices on waters.**

(1) Before starting the boat motor, any spilled fuel must be removed and vapors must be exhausted from any area in which they may accumulate.

(2) The bilge area must be kept clean and oil, grease, fuel, or highly combustible materials must not be allowed to accumulate.

(3) Adequate ventilation equipment must be provided and used for the bilge area to prevent the accumulation of toxic or explosive gases or vapors.

(4) Adequate ventilation equipment must be provided and used for the cabin area on enclosed-cabin boats to prevent an accumulation of harmful gases or vapors.

(5) Deck and cabin lighting must be provided and used where necessary to provide safe levels of illumination aboard boats. Boats operated between sunset to sunrise, or in conditions of restricted visibility, must display navigation lights as required by the United States Coast Guard. Searchlights or floodlights must be provided for safe navigation and to illuminate working or boarding areas adjacent to the craft.

(6) On craft used by employees wearing calked shoes, all areas where employees must stand or walk must be made of or be covered with wood or other suitable matting or nonslip material. The covering must be maintained in good condition.

(7) Each boat must:

(a) Be provided with a fire extinguisher; and

(b) Have a life ring with at least fifty feet of one-fourth inch line attached.

Note: On log broncs, boomscooters, or other small boomboats where all occupants are required to wear life saving devices and a life ring would present a tripping hazard, the life ring may be omitted.

(8) Along docks, walkways, or other fixed installations on or adjacent to open water more than five feet deep, approved life rings with at least ninety feet of one-fourth inch line attached, must be provided. The life rings must be spaced at intervals not exceeding two hundred feet and must be easily visible and readily accessible.

(a) When employees are assigned work at other casual locations where exposure to drowning exists, at least one approved life ring with at least ninety feet of line attached must be provided in the immediate vicinity of the work assigned.

(b) Lines attached to life rings on fixed installations must be at least ninety feet long, at least one-fourth-inch in diameter, and have a minimum breaking strength of five hundred pounds. Similar lines attached to life rings on boats must be at least fifty feet long.

(c) Life rings must be United States Coast Guard approved thirty-inch size.

(d) Life rings and attached lines must be maintained to retain at least seventy-five percent of their designed buoyancy and strength.

(e) Where work is assigned over water where the vertical drop from an accidental fall would exceed fifty feet, special arrangements must be made with and approved by the department of labor and industries prior to such assignment.

(9) Log broncs, boomscooters, and boomboats must not be loaded with employees or equipment in a way that adversely affects stability or seaworthiness.

(10) Boats must not be operated at excessive speed or handled recklessly.

## NEW SECTION

**WAC 296-54-59340 Log unloading, booms, and rafting grounds—Dry land sorting and storage.** (1) Unauthorized foot and vehicle traffic is prohibited in the sorting or storage area.

(2) Logs must be stored in a safe and orderly manner. Roadways and traffic lanes must be kept clear of protruding ends of logs and debris.

(3) Dry deck log storage areas must be kept orderly and maintained in a condition conducive to safe operation of mobile equipment. Roadways and walkways must have a smooth hard-packed surface wide enough to permit a safe operation. Bark, mud, and other debris must not be allowed to accumulate to the extent they constitute a hazard to the operation.

(4) The employer must implement an effective method to control dust at log dumps and in sorting and storage areas.

(5) Only an authorized person shall operate or ride any lift truck, log stacker, or log unloader.

(6) Signaling log unloader operators at dry deck areas by throwing bark or chips in the air is prohibited. Hand, horn signals or other safe, effective means must be used at all times.

(7) Unnecessary talking to the operator while operating controls of a log stacker or log unloader is prohibited.

(8) Lift forks and arms of unloading machines must be lowered to their lowest position, and all equipment brakes set before the operator leaves the machine unattended.

(9) Log unloaders or stackers must not be moved about the premises for distances greater than absolutely necessary with the lift extended above the driver's head or with loads lifted higher than is necessary for vision.

(10) When truck drivers are out of the cab, they must be in the clear, and in view of the log unloader before the lift forks are moved under the load and the lift is made.

(11) Where logs are offloaded onto a dry deck by unloading lines, a self-releasing mechanism must be used. Employees are prohibited from climbing dry decks to release unloading lines.

(12) Employees must not enter the hazardous area near or under loads of logs being lifted, moved, or suspended.

(13) When log unloaders and log stackers are designed so that logs being handled may jeopardize the safety of the operator, the employer must provide overhead protection and any other necessary safeguards.

(14) Log unloaders and log stackers must be equipped with a horn or other audible warning device. If vision is impaired or restricted to the rear, the warning device must be sounded before operating the vehicle in reverse gear and periodically while backing. The warning device must be operative at all times.

(15) A limit stop, which will prevent the lift arms from over-traveling, must be installed on electric powered log unloaders.

(16) Shear guards must be installed on unloading machines and similar equipment on which the arms pivot and move alongside the operator creating a pinch point at that location.

(17) All forklift log handling machines must be equipped with a grapple arms and the arms must be used whenever logs are being carried.

(18) When log trucks are loaded by a log stacker and the lay of any log is higher than the stakes, the log stacker must remain against the completed load, or other suitable protection provided, to prevent the logs from falling until at least two wrappers and binders have been applied.

(19) All binders and wrappers must remain on the load until an approved safeguard has been provided to prevent

logs from rolling off the side of the truck or trailer when binders are released. A shear log, or equivalent means, must be provided to ensure the log truck will be stationed close enough to the wrapper rack so that a log cannot fall between the log truck and the wrapper rack when removing binders and wrappers. At least one binder must remain secured while relocating or tightening other binders. Crotch lines, forklifts, log stackers, log unloaders, or other effective means must be used for this purpose.

(20) An extra wrapper or metal band of equal strength must be placed to hold the logs when it is necessary to remove a wrapper to prevent it from being fouled by the unloading machine.

(21) Machines with arms that block the regular exit when in the up position must have an emergency exit installed.

(22) Riding on any part of a log handling machine except under the canopy guard is prohibited.

(23) Identification tags must not be applied or pulled unless logs are resting in a stationary place, such as bunks, cradles, skids, or sorting tables.

(24) Employees must not approach the immediate vicinity of a forklift-type log handling machine without first notifying the operator of the person's intention and receiving an acknowledgement from the operator.

(25) When dry land log dumps use unloading methods similar to those of water dumps, the safety standards for water dumps apply.

(26) When logs are handled between sunset and sunrise or other periods of poor visibility, the employer must provide illumination that meets the requirements of WAC 296-62-09003 relating to illumination.

(27) Air operated stake releases must meet the following requirements:

(a) The air supply must be taken from the "wet" air reservoir or from the accessory air line to a spring loaded, normally closed control valve;

(b) The control valve must be located in the cab, positioned so that it is accessible only from the operator's position;

(c) The control valve must be fitted with a spring-loaded cover or otherwise guarded against inadvertent operation; and

(d) A separate air line must extend from the control valve to the tractor and trailer stake release chambers. The air line must be clearly identified or installed so that it cannot be mistaken for the service or emergency air line.

(28) Each deck must be constructed and located so it is stable and provides each employee with enough room to safely move and work in the area.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-595 ((~~Railroad operations~~)) ~~Transporting crews.~~ ((1) All persons employed in any service on trains or rail operations, which are not engaged in interstate commerce, are subject to and shall be conversant with all rules and special instructions.**

~~(2) Employees must render every assistance in their power in carrying out these rules and special instructions and must report to the proper official any violation thereof.~~

~~(3) Accidents, detention of trains or speeders, failure in supply of fuel or water, defects in track, bridges, or signals, must be properly reported to the supervisor by the quickest possible method.~~

~~(4) Any logging railroad may maintain a special set of operating rules applicable to their operation, provided that said rules are acceptable to the division of industrial safety and health, department of labor and industries.~~

~~(5) Each logging railroad operation which has more than one piece of railroad equipment in operation, must have a dispatcher on duty. All equipment must receive clearance from dispatcher.~~

~~(6) Train crew size shall be dependent upon the number of persons needed to safely operate the train under all prevailing conditions; however, when necessary to set hand brakes, two or more persons shall be assigned to set the brakes and give signals.~~

~~(7) All locomotives shall be equipped with sanding devices for both rails, front and rear, in proper working order. Clean, dry sand should be used.~~

~~(8) Locomotives shall be equipped with power brakes (air or steam) on all driving wheels. Tenders also shall have power brakes.~~

~~(9) All locomotives and speeders, operating between sunset and sunrise or other periods of reduced visibility, shall be equipped with and use head lights which shine in the direction of travel. The lights shall be of sufficient candlepower so the train can be stopped within range of the light beam. Cab lights shall be provided and maintained so the operators can see from their required positions the gauges and equipment necessary for operation.~~

~~(10) All locomotives shall be equipped with proper grab irons, hand holds, steps, and running boards.~~

~~(11) All locomotives shall be equipped with automatic couplers, suitable for low or high draw bars.~~

~~(12) On all rolling stock, wheels which have sharp or badly worn flanges, shall be replaced. Avoid the use of flat wheels.~~

~~(13) All locomotives with tender shall have an apron of proper length and width to insure safety and which shall be roughened to insure secure footing.~~

~~(14) Handholds and footboards shall be provided on locomotive cranes, except where cab overhangs end of car.~~

~~(15) Trains and speeders shall not exceed a safe speed.~~

~~(16) A terminal test of air brakes shall be made by trainmen before leaving the terminal. Enginemen shall not proceed until they are satisfied by brake action that brakes are able to control the train.~~

~~(17) All of the cars in a train shall have their brakes in good operating condition.~~

~~(18) On railroads where joint operations of two or more firms are necessary, trains shall not be dispatched less than fifteen minutes apart. Red lights shall be displayed on the rear of such trains at night or when visibility is poor.~~

~~(19) Whenever cars are left on grades, derailleurs shall be provided. Derail signs shall be placed near derailleurs. In set-~~

ting out equipment, care shall be used in seeing that proper clearance is provided.

(20) Standard pressure for mountain grades requires a pressure of ninety pounds in train pipe, one hundred ten pounds in main reservoirs (low pressure) and one hundred thirty pounds in high pressure to insure quick releasing of brakes and recharging of auxiliaries. Engineer shall see that the engine carries these pressures and that sanders, both forward and rear, are in working order. On all heavy grades the high pressure retaining valve must be used and before train is started from landing, a test of brakes must be made and piston travel adjusted, if necessary, and retaining valves put up. Engineer shall start train away from landing slowly, giving wheels a chance to roll before applying brakes and, to avoid skidding of wheels, using sand freely. Brakes should then be applied immediately and released, allowing the retaining valves to hold the train while train pipe and auxiliaries are being recharged. Train speed should be held to the required rate by setting and releasing brakes as it is necessary to control train.

(21) When it is necessary to leave loads on pass while switching a side, loads must be left close to derailer, air set and sufficient hand brakes set up, before cutting engine from train.

(22) Engineer must see car or signal person when making couplings, giving train crew ample time to align drawheads and open knuckles of coupler, especially on curves, except when using radios.

(23) Drawbars should not be aligned with the foot while cars or engines are in motion. Train crew shall not climb between cars while in motion. Engineers shall not drift too close to switches which are to be thrown. Position of switch points should always be observed after throwing switch. Switch lever should be pushed firmly into the notch before leaving the switch. No persons except trainmen, unless authorized, shall ride on engine foot boards. No object shall be thrown from train or engine while in motion. Bell shall be rung or whistle blown, before moving locomotive.

(24) No equipment shall be pushed ahead of locomotive unless a brake tender is on head car in constant view of engineer or second brake tender in position to intercept and pass signal to engineer.

(25) In addition to air brakes, hand brakes must be provided on all cars and maintained in good working order.

(26) Hand brakes must be easily accessible to brake tenders when cars are loaded. When wheels or staff brakes are used they should be placed on the side opposite the brow log at the dump to prevent their damage when cars are unloaded. All switch throws, walkways and cleared areas for brake tenders shall be on the hand brake side.

(27) All brake hickies shall be made from three fourths inch hexagon steel (high grade) and be twenty four inches with a good claw on one end to fit the wheel and a knob on opposite end to prevent slipping from brakeman's hand.

(28) All railroad trucks and cars, where brakes are set by hand while in motion, shall have good footboards and toeboards on the brake end.

(29) A ten inch bunk block is recommended on all trucks to prevent logs from slipping over block.

(30) All cars other than logging trucks must have hand hold and foot steps to permit persons to get on and off easily and safely.

(31) All cars and trucks regularly operated must have automatic couplers.

(32) Locomotives and cabooses shall carry the following equipment:

- + red light (lantern type)
- 3 red flags
- At least 3 fuses

(33) When a train stops between telephones, or where the rear of a train extends beyond yard limits, the rear of the train must be properly protected.

(34) Whistle sign board shall be placed one thousand two hundred feet from each side of highway crossings.

(35) A rail clamp shall be placed to hold cars left on a grade on main line or spurs.

(36) All cars and trucks shall be legibly numbered so that those with defects may be reported and taken out of service. Each locomotive, speeder, or other self propelled vehicles shall be numbered, or otherwise made readily identifiable.

(37) All cars used for hauling logs shall be equipped with patent stake bunks, or bunks with chock blocks and/or chains, so constructed that block can be released from opposite end of bunk unless solid stakes are used.

(38) All main line trains of more than ten loaded cars shall have a caboose at the rear of the train.

(39) All operations having both truck roads and railroads, shall post signs at intersections same as public crossings.

Engine whistle signals. The following engine whistle signals are established as standard and are taken from the American Association of Railroads. The signals prescribed are illustrated by "o" for short sounds and "—" for long sounds. Audible whistle shall be sounded when approaching camps, junctions, grade crossings and other prescribed places in conformity with the American Association of Railroads:

- One short ..... (o) Stop, apply brakes.
- Two long ..... (—) Release brakes.
- Three long ..... (—) When running, train parted, to be repeated until answered by hand signal.
- Two short ..... (oo) Answer to any signals not otherwise provided for.
- Three short ..... (ooo) When train is standing back.
- Four short ..... (oooo) Call for signals.
- Two long, two short ..... (—oo) Approaching highway crossing at grade.
- One long ..... (—) Approaching station, rollway, chute, crossing, junctions, and derailleurs. When standing, air leak.

PERMANENT

- Six long ..... (————) Repeated at intervals, call for section crew, train derailed.
- One long, three short ..... (—ooo) Flagger to go back and protect rear of train.
- Four long ..... (————) Foreman.
- Five long ..... (————) Flagger to return from any direction.
- Long, short ..... (—o—o) Repeated four or more times, fire alarm.
- Seven long, two short ..... (————oo) Repeated, person hurt.
- One long, one short ..... (—o) Repeated at intervals, closing down.
- Groups of shorts repeated ..... (ooooooo) Danger of runaway.
- Unnecessary use of whistle is prohibited.)

**NEW SECTION**

**WAC 296-54-59510 Speeders used to transport crews.** (1) All speeders must be equipped with two separate and independently operated braking systems, either of which must be of sufficient capacity to lock all wheels when speeder is fully loaded;

(2) All speeders used for transporting crews must be equipped with methods for sanding tracks, operative for both directions of travel.

(3) Electric lights of sufficient candle power and range so that vehicle can be stopped within the range of the beam, and which will shine in the direction of travel, must be provided on all speeders.

(4) Adequate tail lights must be installed and maintained in good order.

(5) Automatic windshield wipers of sufficient capacity to maintain clear visibility must be installed on all speeders.

**NEW SECTION**

**WAC 296-54-59520 Trailers used to transport crews.**

(1) When trailers are coupled behind speeders, they must be equipped with two separate and independent braking systems, either must be of sufficient capacity to lock all wheels when the trailer is fully loaded. One of these must be power operated and must be controlled from the speeder; the other manually operated from the trailer. One person must be designated to operate this brake in case of emergency.

(2) All trailers must be coupled to speeders with metal couplings and safety chains or straps of sufficient strength to withstand the impact caused by a broken coupling.

(3) No trailer shall coast or be used as a crew car without being attached to a speeder.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-597 Railroads (~~(maintenance—Loading or unloading)~~).** ((~~(1) Track gangs, bridge crews, etc., when working on railroads in use shall place a yellow caution flag by day and a yellow lantern by night a sufficient distance both directions from the crew to protect them against approaching equipment. The operator of said equipment shall acknowledge the signal by two short blasts of the whistle or horn and proceed with caution.~~

When said crews are removing or replacing a rail or are performing any other work that would make it necessary for approaching equipment to come to a stop, they shall place a red flag by day and a red lantern by night in the center of the track a sufficient distance in both directions from the crew to protect them against said equipment. The operator of approaching equipment shall acknowledge the signal by one short blast of the whistle or horn and shall come to a dead stop and remain standing until the signal is removed by the person who placed it, or until investigation proves that the track is safe for passage. If a flagger is used, the above provision need not apply.

~~(2) Where clearance is scant, warning signs or signals shall be posted.~~

~~(3) Switch throws should be kept well oiled and targets and signs in good legible condition.~~

~~(4) Standard clearances shall be maintained at all points on the right of way except where necessarily restricted where loading or unloading operations are performed or at water tanks, fuel tanks, etc. Warning signs shall be posted at all such locations.~~

~~(5) Whenever workers are repairing, working on or in railroad equipment, loading or unloading cars or performing other duties where there is danger of the railroad equipment being struck by other moving railroad equipment, proper means, methods or safeguards shall be used to protect such workers. A derail shall be used to prevent other rail equipment from contacting such cars or equipment or endangering the work crew. After cars are spotted, blue flags shall be placed in the center of the tracks at least fifty feet from the end car during the day and blue lights shall be installed at such locations at night. Flags, lanterns and derails shall be removed only by the person placing them unless they are to remain posted for a longer period of time, in which case one person on each oncoming shift shall be responsible to ascertain that they are in place and they shall not remove such safeguards until that person investigates to make certain all persons are in the clear. Operators of approaching equipment shall not pass or remove a flag or lantern which is properly posted. Cars or other equipment shall not be placed where it will obscure the signal from an operator controlling approaching equipment.)~~

**NEW SECTION**

**WAC 296-54-59710 Railroad construction and maintenance.** (1) All construction must be according to safe logging practices as to size of rails, ties, track accessories and methods of installing same.

PERMANENT



(2) Rail guards must be placed on main lines and spurs, consistent with the type of traffic and general local conditions.

(3) Rail anchors of approved design must be installed wherever practicable.

(4) Frogs, switches, and guard rail ends must have either patent or wooden foot guard blocking installed.

(5) Slip plates must be used under all switches and switch points.

(6) All above ground wire for permanent telegraph or telephone lines used for dispatching must be well strung on insulators and must be clear of the ground and obstructions.

(7) Where telephone lines are strung under or near power lines, foot stools mounted on insulators in front of telephone boxes must be used, unless other protection is provided, which affords a substantially equivalent measure of safety.

(8) Foundations, pile trestles, framed bent trestles, mud sills, or other framework of all structures must be adequate to support the maximum imposed loads without exceeding the maximum safe working unit stresses.

(a) The structure must be maintained in good condition and repair.

(b) The structure must be inspected at least annually by a qualified person.

(c) The employer must maintain records of the inspections and make the records available to the department on request.

(9) Outside wooden guard rails must be installed on all railroad bridges except that outside wooden rails will not be required where inside steel guard rails are used;

(a) They must extend not less than six inches above the top of the ties and must be bolted or spiked to ties at intervals of not more than five feet; and

(b) Spacer blocks must be used unless ties are spiked to stringers, or guard rails are dapped to avoid need for spacer blocks.

(10) Guard rails must extend at least six inches above the top of the ties and are bolted or spiked to ties at maximum intervals of five feet. Spacer blocks must be used unless ties are spiked to stringers, or guard rails are dapped to avoid need for spacer blocks.

(11) Regular bridge ties of not less than ten feet in length must be used on all railroad bridges constructed after the effective date of these standards.

(12) Trestles and bridges longer than two hundred fifty feet must have safety platforms with safe standing space for two persons installed. The platforms must be spaced so that a person on the trestle or bridge is never more than one hundred twenty-five feet from a safety platform or the end of the bridge or structure.

(13) All railroad bridges and trestles used regularly as footways must have a plank walkway between the rails that is at least twelve inches wide and two inches thick. The walkway must extend from end to end of the bridge or trestle.

(14) A suitable substantial walkway at least three feet wide with handrail must be installed on bridges or trestles where train crews must perform routine inspection or repair work on trains. Substantial platforms and handrails must be provided where switches are located on bridges or trestles.

Adequate clearance must be allowed for the throw of the switch.

(15) All dangerous trees, snags or brush must be cleared a safe distance from both sides of the track. Any obstruction that will create a transportation hazard must be removed.

(16) Material must be provided that will promote secure footing at places alongside the track where employees customarily perform duties, such as inspecting loads, setting brakes by hand, or throwing switches.

(17) The distance between any main tracks and a side track must allow a clearance of four feet between bunk ends and locomotive cabs.

(18) The following clearances must be maintained:

(a) At least eight feet horizontal clearance on each side of the center line of standard gauge mainline railroads; and

(b) At least twenty-two feet vertical clearance above the top of each rail (according to standard railroad engineering practices).

(19) Derailers must be installed as follows:

(a) Derailers must be installed and used on all landings, passing tracks, and spurs where cars are left on a grade.

(b) Derailers must be close to standing equipment.

(c) The operation of a derailer must not create a hazard to buildings and other railroad lines.

(d) Derailers must not be installed on the inside rail on a sharp curve.

(e) Derail signs must be set on both sides of the track even with the derailer.

(f) An unneeded derailer must be removed or rendered inoperative.

## NEW SECTION

**WAC 296-54-59720 Railroad operations.** (1) Employees must report accidents, detention of trains or speeders, failure in supply of fuel or water, defects in track, bridges, or signals to the supervisor by the quickest possible method.

(2) Any logging railroad may maintain a special set of operating rules applicable to their logging operation, provided that said rules are acceptable to the department of labor and industries.

(3) Each logging railroad operation with more than one piece of railroad equipment in operation, must have a dispatcher on duty. All equipment must receive clearance from the dispatcher.

(4) Train crew size must be based on the number of persons needed to safely operate the train under all prevailing conditions. When necessary to set hand brakes, two or more persons must be assigned to set the brakes and to give signals.

(5) All locomotives must be equipped with sanding devices for both rails, front and rear, in proper working order. Clean, dry sand should be used.

(6) Locomotives must be equipped with power brakes (air or steam) on all driving wheels. Tenders must also have power brakes.

(7) All locomotives and speeders, operating between sunset and sunrise or other periods of reduced visibility, must be equipped with and use head lights that shine in the direction of travel. The lights must be bright enough so the train can be stopped within range of the light beam. Cab lights

must be provided and maintained so the operators can see from their required positions the gauges and equipment necessary for operation.

(8) All locomotives must be equipped with proper grab irons, hand holds, steps, and running boards.

(9) All locomotives must be equipped with automatic couplers, suitable for low or high draw-bars.

(10) On all rolling stock, wheels with sharp or badly worn flanges, must be replaced. Avoid using flat wheels.

(11) All locomotives with tender must have an apron of proper length and width to ensure safety. The apron must be roughened to ensure secure footing.

(12) Handholds and footboards must be provided on locomotive cranes, except where the cab overhangs the end of the car.

(13) Trains and speeders must not exceed a safe speed.

(14) The trainmen must test the air brakes before leaving the terminal. Enginemen must not proceed until they are satisfied by brake action that the brakes are able to control the train.

(15) All of the cars in a train must have brakes in good operating condition.

(16) On railroads where joint logging operations of two or more firms are necessary, trains must be dispatched at least fifteen minutes apart. Red lights must be displayed on the rear of such trains at night or when visibility is poor.

(17) Whenever cars are left on grades, derailleurs must be provided. Derail signs must be placed near derailleurs. In setting out equipment, care must be used in seeing that proper clearance is provided.

(18) Standard pressure for mountain grades requires a pressure of ninety pounds in train pipe, one hundred ten pounds in main reservoirs (low pressure) and one hundred thirty pounds in high pressure to ensure quick releasing of brakes and recharging of auxiliaries. Engineer must see that the engine carries these pressures and that sanders, both forward and rear, are in working order. On all heavy grades the high pressure retaining valve must be used and before train is started from landing, a test of brakes must be made and piston travel adjusted, if necessary, and retaining valves put up. Engineer must start train away from landing slowly, giving wheels a chance to roll before applying brakes and, to avoid skidding of wheels, using sand freely. Brakes should then be applied immediately and released, allowing the retaining valves to hold the train while train pipe and auxiliaries are being recharged. Train speed should be held to the required rate by setting and releasing brakes as it is necessary to control train.

(19) When necessary to leave loads on a pass while switching a side, loads must be left close to the derailer, air set and enough hand brakes set up, before cutting the engine from the train.

(20) The engineer must see the car or signal person when making couplings, giving the train crew enough time to align drawheads and open knuckles of coupler, especially on curves, except when using radios.

(21) Drawbars should not be aligned with the foot while cars or engines are in motion. The train crew must not climb between cars while in motion. Engineers must not drift too close to switches that are to be thrown. The position of switch

points should always be observed after throwing switch. The switch lever should be pushed firmly into the notch before leaving the switch. No persons except trainmen, unless authorized, shall ride on engine footboards. Throwing objects from the train or engine while in motion is prohibited. A bell must be rung or whistle blown before moving the locomotive.

(22) Equipment must not be pushed ahead of a locomotive unless a brake tender is on the head car in constant view of the engineer or second brake tender in a position to receive and pass the signal to the engineer.

(23) In addition to air brakes, hand brakes must be provided on all cars and maintained in good working order.

(24) Hand brakes must be easily accessible to brake tenders when cars are loaded. When wheels or staff brakes are used they should be placed on the side opposite the brow log at the dump to prevent their damage when cars are unloaded. All switch throws, walkways, and cleared areas for brake tenders must be on the hand brake side.

(25) All brake hickies must be made from three-fourths inch hexagon steel (high grade) and be twenty-four inches with a good claw on one end to fit the wheel and a knob on opposite end to prevent slipping from the brakeman's hand.

(26) All railroad trucks and cars, where brakes are set by hand while in motion, must have good footboards and toeboards on the brake end.

(27) A ten-inch bunk block is recommended on all trucks to prevent logs from slipping over block.

(28) All cars other than logging trucks must have hand hold and foot steps to permit employees to get on and off easily and safely.

(29) All cars and trucks regularly operated must have automatic couplers.

(30) Locomotives and cabooses must carry the following equipment:

- 1 red light (lantern type)
- 3 red flags
- At least 3 fuses

(31) When a train stops between telephones, or where the rear of a train extends beyond yard limits, the rear of the train must be properly protected.

(32) A whistle sign board must be placed one thousand two hundred feet from each side of highway crossings.

(33) A rail clamp must be placed to hold cars left on a grade on main line or spurs.

(34) All cars and trucks must be legibly numbered so that those with defects may be reported and taken out of service. Each locomotive, speeder, or other self-propelled vehicles must be numbered, or otherwise made readily identifiable.

(35) All cars used for hauling logs must be equipped with patent stake bunks, or bunks with chock blocks and/or chains, constructed so that the block can be released from the opposite end of the bunk unless solid stakes are used.

(36) All main line trains of more than ten loaded cars must have a caboose at the rear of the train.

(37) All logging operations having both truck roads and railroads must post signs at intersections same as public crossings.

(38) The following engine whistle signals are established as standard and are taken from the American Association of Railroads. The signals prescribed are illustrated by "o" for

short sounds and "-" for long sounds. Audible whistle must be sounded when approaching camps, junctions, grade crossings and other prescribed places as required by the American Association of Railroads:

One short	(o) Stop, apply brakes.
Two long	(—) Release brakes.
Three long	(—) When running, train parted, to be repeated until answered by hand signal.
Two short	(oo) Answer to any signals not otherwise provided for.
Three short	(ooo) When train is standing back.
Four short	(oooo) Call for signals.
Two long, two short	(—oo) Approaching highway crossing at grade.
One long	(-) Approaching station, rollway, chute, crossing, junctions, and derailleurs. When standing, air leak.
Six long	(——) Repeated at intervals, call for section crew, train derailed.
One long, three short	(-ooo) Flagger to go back and protect rear of train.
Four long	(——) Foreman.
Five long	(——) Flagger to return from any direction.
Long, short	(-o-o-o) Repeated four or more times, fire alarm.
Seven long, two short	(——oo) Repeated, person hurt.
One long, one short	(-o) Repeated at intervals, closing down.
Groups of shorts repeated	(oooooo) Danger of runaway.

Unnecessary use of whistle is prohibited.

## NEW SECTION

**WAC 296-54-59730 Railroad maintenance—Loading or unloading.** (1) Whenever track gangs, bridge crews, etc., work on railroads that are in use, the following signal systems must be implemented:

(a) A yellow caution flag by day and a yellow lantern by night is placed far enough in each direction from the crew to protect them against approaching equipment. The operator of approaching equipment must acknowledge the signal by two short blasts of the whistle or horn and proceed with caution.

(b) When crews are removing or replacing a rail or performing any other work that would make it necessary for approaching equipment to come to a stop, a red flag during daytime work and a red lantern during nighttime work is placed in the center of the track far enough in each direction from employees to protect them against approaching equipment. The operator of approaching equipment must:

(i) Acknowledge the signal by one short blast of the whistle or horn;  
(ii) Come to a dead stop; and  
(iii) Remain standing until the signal is removed by the person who placed it, or until investigation proves that the track is safe for passage.

(c) The employer may choose to use a flagger in place of meeting the above requirements.

(2) Where clearance is scant, warning signs or signals must be posted.

(3) Switch throws should be kept well oiled and targets and signs in good legible condition.

(4) Standard clearances must be maintained at all points on the right of way. However, if clearance is necessarily restricted in loading or unloading areas or at water tanks, fuel tanks, etc., then warning signs must be posted at these locations.

(5) The employer must provide adequate safeguards to protect employees performing the following tasks:

- Repairing railroad equipment;
- Working on or in railroad equipment;
- Loading or unloading cars; or
- Performing other duties where there is danger of the railroad equipment being struck by other moving railroad equipment.

(a) A derail must be used to prevent other rail equipment from contacting such cars or equipment or endangering employees. After cars are spotted, blue flags must be placed in the center of the tracks at least fifty feet from the end car during the day and blue lights must be installed at such locations at night.

(b) Flags, lanterns, or derails must be removed only by the person placing them unless they are to remain posted for a longer period of time. In which case one person on each oncoming shift must determine that they are in place and they must not remove the safeguards until certain that all employees are in the clear.

(c) Operators of approaching equipment must not pass or remove a flag or lantern that is properly posted. Cars or other equipment must not be placed where they will obscure the signal from an operator controlling approaching equipment.

**AMENDATORY SECTION** (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

**WAC 296-54-601 Signals and signal systems.** ((+) Standard hand or whistle signals as described or illustrated herein, shall be used for the movement of rigging, logs, or equipment when using a high lead, slackline, or cable skidder system for yarding. For hand signal illustrations, see Figure 4.

~~(2) Voice communications may be used for yarding under the following conditions:~~

~~(a) Voice communications by use of radio frequencies may be used to transmit instructions and directions to the yarder operator when using a grapple type logging system, providing no person is in a hazardous area near live rigging.~~

~~(b) Voice communication may be used to instruct the yarder operator when picking up an occasional log with the use of a choker on a grapple system, providing the grapple is~~

on the ground prior to the setting of the choker and that no lines are moved by the operator until the person setting the choker has returned to a safe location away from any running lines. At no time shall chokers be used on the grapple system during the hours of darkness or during periods of reduced visibility to such extent that the yarder operator cannot clearly see the setting of the choker. When a number of logs are required to be yarded by using chokers instead of the grapple, the requirements specified for high lead type of logging shall apply.

(e) Voice communications by use of radio frequencies may be used to transmit instructions and directions to the yarder operator when using a balloon system for yarding. The person operating the radio shall ascertain that all crew members are in the clear before transmitting instructions which would cause any line or turn to move. The person giving such instructions shall keep the crew members informed as to which movements will commence. The whistle shall be blown before moving any running line.

(d) The Federal Communications Commission rules require that assigned call letters be used in conjunction with voice communications.

(3) Voice communications on the same radio frequencies used to transmit skyline, highlead, slackline, or skidder whistle signals (154.57 and 154.60 MHz channels), shall be prohibited.

Note: If voice is received on 154.57 or 154.60 MHz channels, it is recommended the Assistant Director, Department of Labor and Industries, P.O. Box 44650, Olympia, Washington 98504-4650 (phone (360) 902-5428) be contacted as soon as possible to enable the department to ascertain the source of the voice transmission.

(4) If a standard signal is not listed for an unusual or new situation, a hand or whistle signal other than any listed for the type of yarding being done may be used for the specific situation only. Any special signals so developed shall be understood by all persons required to work in the area which may be affected by their use.

(5) A copy of the standard hand and whistle signals shall be posted on the yarder and at places where crews congregate. For tractor logging operations, hand signals shall be posted at places frequented by the crew members such as in crew buses, etc.

(6) Only one person in any crew shall give signals at the point where chokers are being set. Any person is authorized to give a stop signal when a person is in danger or other emergency condition is apparent.

(7) Hand signals are permitted only when the signal person is in plain sight of the machine operator and when visibility is such that the signals are discernible. Hand signals may be used at any time as an emergency stop signal.

(8) Throwing of any type of material as a signal is prohibited.

(9) The use of a jerk wire signal system for any type of yarding operation is prohibited.

(10) All persons shall be in the clear before any signal is given to move the rigging, logs, or turns, and movement of rigging, logs, or turns shall not commence until after the proper signals have been given.

(11) Machine operators shall not move any line unless the signal received is clear and distinct. If in doubt, the operator shall repeat the signal as understood and wait for confirmation.

(12) A horn or whistle which is automatically activated by the radio or electric signaling system shall be used on each yarder used for skyline, high lead, skidder or slackline system of yarding, except where hand signals are permissible. The horn or whistle shall emit a sound which will be clearly audible to all persons in the affected area. Such a horn or whistle shall also be required on combination yarding and loading machines and tree pullers. Audible signals are not necessary on grapple or other yarding systems where persons are not exposed to the movement of logs or rigging.

(13) Each unit of the signal or control system in use, shall be tested daily before operations begin. Audible signals used for test purposes shall not include signals used for the movement of lines or materials.

(14) Citizen band (CB) radios shall not be used to activate any signal, machine, or process, either automatically or by voice. This shall not prohibit the use of CB radios for communication between sides, vehicles, work units, or for emergency situations.

(15) When audible whistle signals are being used simultaneously by yarding and loading machines at a landing, signal whistle or horn tones used in connection with machine movements shall be so differentiated as to distinctively identify any intended work movement of either machine.)) (1) Standard hand or whistle signals as described in this chapter must be used for the movement of rigging, logs, or equipment when using a high lead, slackline, or cable skidder system for yarding. For hand signal illustrations, see appendix 1.

(2) Voice communication may be used to move rigging and control movement of logs, provided a standard audible whistle signal is sounded before any line is moved.

Note: Subsections (1) and (2) of this section do not apply to grapple or other special yarding systems where employees are not exposed to the movement of logs or rigging.

(3) Voice communications may be used for grapple yarding under the following conditions:

(a) Voice communications by use of radio frequencies may be used to transmit instructions and directions to the yarder operator when using a grapple type logging system, if no employee is in a hazardous area near live rigging.

(b) Voice communication may be used to instruct the yarder operator when picking up an occasional log with the use of a choker on a grapple system, if the grapple is on the ground before the setting of the choker and no lines are moved by the operator until the person setting the choker has returned to a safe location away from any running lines. When a number of logs must be yarded by using chokers instead of the grapple, the requirements for high lead logging apply.

(4) Voice communication on the same radio frequencies used to transmit skyline, high-lead, slackline or skidder whistle signals (154.57 and 154.60 MHz channels), must be limited to reporting injuries, fire, and emergency situations where special tools or precautions are needed to prevent or alleviate a hazardous situation. In addition:

(a) The rigging crew must call the yarder engineer by name to ensure that proper contact is established;

(b) The yarder engineer must acknowledge the call with a whistle "stop" signal before the caller starts transmitting the voice message;

(c) Voice transmission must be kept as brief and to the point as possible; and

(d) After receiving the voice message, the yarder engineer must again acknowledge with a whistle "stop" signal that the message has been received and is clearly understood.

(5) If a standard signal is not listed for an unusual or new situation, a hand or whistle signal other than any listed for the type of yarding being done may be used for the specific situation only. Any special signals developed must be understood by all persons working in the area who may be affected by their use.

(6) A copy of the standard hand and whistle signals must be posted on the yarder and at places where crews congregate. For tractor logging operations, hand signals must be posted at places frequented by the crew members such as in crew buses, etc.

(7) Only one person in any crew shall give signals at the point where chokers are being set. Any person is authorized to give a stop signal when someone is in danger or another emergency condition is apparent.

(8) Hand signals are permitted only when the signal person is in plain sight of the machine operator and when visibility allows signals to be seen. Hand signals may be used at any time as an emergency stop signal.

(9) Throwing of any type of material or relying on engine noise, such as from a chain saw, as a signal is prohibited.

(10) All persons must be in the clear before any signal is given to move the rigging, logs, or turns. Rigging, logs, or turns must not be moved until after the proper signals have been given.

(11) Machine operators must not move any line unless the signal received is clear and distinct. If in doubt, the operator must repeat the signal as understood and wait for confirmation.

(12) A horn or whistle that is automatically activated by the radio or electric signaling system must be used on each yarder used for skyline, high lead, skidder or slackline system of yarding, except where hand signals or voice communication as described in subsection (2) of this section is permitted. The horn or whistle must emit a sound that is clearly audible to all persons in the affected area and must be sounded before any line is moved. Such a horn or whistle is also required on combination yarding and loading machines and tree pullers. Audible signals are not necessary on grapple or other yarding systems where persons are not exposed to the movement of logs or rigging.

(13) All radio-controlled motorized carriages and sky-cars must have a warning horn which must be sounded before any lines or loads are moved or an audible whistle must be sounded from the yarder.

(14) Each unit of the signal or control system in use must be tested daily before logging operations begin. Audible signals used for test purposes must not include signals used for the movement of lines or materials.

(15) Citizen band (CB) radios must not be used to activate any signal, machine, or process, either automatically or by voice. CB radios may be used for communication between sides, vehicles, work units, or for emergency situations.

(16) When audible whistle signals are being used simultaneously by yarding and loading machines at a landing, signal whistle or horn tones used in connection with machine movements must be so differentiated as to distinctively identify any intended work movement of either machine.

(17) When the normal crew configuration consists of two or more persons at the point where chokers are being set, they must each carry an operable transmitter on their person. Only one transmitter is required if:

(a) The signal person has no other duties and remains in an area where there are no hazards created by the moving rigging or logs; or

(b) The rigging crew is comprised of only one employee.

(18) The use of a jerk wire whistle system for any type of yarding operation is prohibited.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-603 Electric signal systems. ~~((1) Where an electrical signal system is used, all wire and attachments shall be of the weatherproof type and all connections shall be weatherproof.~~

~~(2) Electric signal systems shall be properly installed and adjusted. They shall be protected against accidental signaling and shall be maintained in good operating condition at all times. Sufficient signal wire shall be provided to enable good voice contact between the whistle punk and rigging crew at all times.)~~ (1) Where an electrical signal system is used, all wires, attachments, and connections must be weatherproof.

(2) Electric signal systems must be properly installed and adjusted. They must be protected against accidental signaling and must be maintained in good operating condition at all times. Enough signal wire must be provided to enable good voice contact between the whistle punk and rigging crew at all times.

#### NEW SECTION

WAC 296-54-604 Radio signaling permits. To apply for a new radio signaling permit, to request a change in a permit, or to request a change in the use area for any permitted system, write to:

WISHA Services Division—Permits  
Department of Labor & Industries  
P.O. Box 44650  
Olympia, WA 98504-4650

AMENDATORY SECTION (Amending WSR 96-22-013, filed 10/28/96, effective 1/1/97)

WAC 296-54-605 Radio systems used for voice communication, activation of audible signals, or control of equipment. ~~((1) Every employer who uses a radio signaling or control system (voice or functions) shall comply with or exceed the minimum requirements specified in this section.~~

(2) ~~A valid operating permit shall be obtained by the owner from the department of labor and industries, prior to putting into use any radio signaling or control system (voice or functions) intended to be used in conjunction with any type of cable logging operation. Permits will be issued only for systems licensed for such use and using those carrier frequencies as authorized by the Federal Communications Commission. In addition, permits will be granted only when tone or function frequencies are compatible with other radio systems in use and when in compliance with all other applicable requirements contained in this safety standard.~~

(3) ~~The department of labor and industries reserves the right to designate the use of radio frequencies for certain purposes or functions, for example, certain frequencies may be used for voice transmission of instruction, others for tone coded functions, or activation of signaling devices. No single tone sets shall be permitted for logging purposes. The department may also designate which tone frequencies may be used for the activation of a signaling device or for control of equipment on certain federal communication assigned carrier frequencies.~~

(4) ~~A list of tone frequencies which may be used with any Federal Communications Commission assigned carrier frequencies will be made available by the department to any interested person, firm, or corporation upon request.~~

(5) ~~The department shall assign the area or areas in which a radio signaling system may be used and shall so mark on the permit. Radio signaling systems shall not be used in any area other than indicated on the permit. (See Figure 10 for map of areas.)~~

(6) ~~The person or firm name on the permit shall be the same as the person or firm operating the radio signaling system except for loaner or rental sets. A person or firm using a loaner or rental set shall be responsible for the radio signal system as if they were the owner of the set. The application for a permit to use a radio signaling system shall contain the following information:~~

(a) ~~Name and address of applicant.~~

(b) ~~The radio frequencies of the radio signaling device in MHz.~~

(c) ~~The tone frequency or frequencies of the radio signaling system used to activate a horn, whistle, or control equipment in Hz. The security gate, or pulse tone, shall be shown first.~~

(d) ~~The name of the manufacturer of the radio signaling system.~~

(e) ~~The serial number of the receiving unit.~~

(f) ~~The state assigned area or location in which the unit will operate.~~

(g) ~~Indicate type of signaling used.~~

(h) ~~From whom the system was purchased or acquired, and the date of acquisition of the system.~~

(i) ~~Intended use and function of system.~~

(7) ~~The permit granted by the department shall be attached to the case of the receiver of the radio signaling system for which it is granted.~~

(8) ~~Each radio receiver shall have its radio carrier frequency in MHz and tone frequency(s) in Hz indicated on the outside case of the receiver. The manufacturer's name and serial number shall also be permanently indicated on the out-~~

~~side of the case. When the duration or width of the tone frequencies performs a function, the one duration/width shall also be permanently indicated on the outside of the receiver case. Each transmitter shall be identified with its receiver. Two or more receivers in operation simultaneously on the same tone frequency shall be prohibited.~~

(9) ~~It shall be the responsibility of the owner of any radio signaling system to notify the department of labor and industries, immediately, if the signal system is:~~

(a) ~~Permanently retired (in what manner and date retired).~~

(b) ~~Sold (submit name and address of purchaser and date sold).~~

(c) ~~Removed from the state (name of state to which moved and date moved).~~

(d) ~~Stolen (date).~~

(10) ~~Two operable transmitters shall be carried by separate individuals at the point where chokers are being set at all times when transmitters are being used for tone signaling by persons around the live rigging in the choker setting area. Only one radio transmitter shall be required if in the possession of a signalperson who has no other duties and remains in an area where there are no hazards created by the moving rigging or logs. If the total crew consists of a yarder operator and one person in the rigging, only one transmitter is required provided a positive system is instituted and used to check on the well being of the person in the rigging.~~

(11) ~~When interference, overlap, fadeout, or blackout of radio signals is encountered, the use of the device shall be discontinued immediately. The use of the device shall not be resumed until the source of trouble has been detected and corrected.~~

(12) ~~All radio signaling systems put into use for the first time after the effective date of these safety standards, shall meet or exceed the minimum performance specifications contained in WAC 296-54-607 of these safety standards, and, when altered or repaired, shall continue to meet such specifications.~~

(13) ~~At least one make and model of each signaling system shall be tested and certified that it meets or exceeds the minimum requirements for performance as specified in WAC 296-54-607. A copy of such performance report shall be signed by the person or persons who tested the unit or components and shall be sent to the Department of Labor and Industries, P.O. Box 44650, Olympia, Washington 98504-4650.~~

(14) ~~Radio equipment shall not be used without displaying a permit as required by this standard. The permit shall be prominently displayed on the outside case of the receiver of the unit or, for radio-controlled carriages, on the transmitter in the yarder.~~

(15) ~~Adjustments, repairs, or alterations of radio signaling devices shall be done only by or under the immediate supervision and responsibility of a person holding a first-class or second-class commercial radio operator's license, either radio telephone or radio telegraph, issued by the Federal Communications Commission. Persons who do not possess the technical ability or do not have the proper equipment to cause the signaling systems to function within required tol-~~

erances shall not attempt to repair, alter, or adjust such systems.

(16) Radio frequencies assigned to systems for which voice communications may be used to give signals to the yarder operator, shall not be the same frequencies as those assigned for whistle signals used in skyline, highlead, slackline, or cable skidder systems.

(17) When hazardous interference is created by moving a voice communication system into an area where a system is

already in use on the same frequency, use of the newly moved system shall be immediately discontinued until the problem of interference has been corrected.

(18) Before moving any unit from one assigned geographical area to another (see area map, Figure 10 following this section), a new permit shall be applied for and secured from the Department of Labor and Industries, P.O. Box 44650, Olympia, Washington 98504-4650.

Form No. 157. STATE OF WASHINGTON 3-71  
 DEPARTMENT OF LABOR AND INDUSTRIES DIVISION OF SAFETY  
 APPLICATION FOR PERMIT  
 TO OPERATE RADIO SIGNAL SYSTEM IN DESIGNATED AREA

Radio Carrier Frequency \_\_\_\_\_ Serial No. \_\_\_\_\_  
 Tone Coding Frequency \_\_\_\_\_ Hz Name of Manufacturer of  
 Signal System \_\_\_\_\_  
 Firm Name \_\_\_\_\_ Address \_\_\_\_\_ By \_\_\_\_\_  
 Intended Function of Unit: Voice communication  Whistle signal  Control Equipment   
 Area in which Unit will be Operated: 1  2  3   
(Area map included in Safety Standards for Logging Operations)  
 Type of Tone: Sequential  Simultaneous  If other specify type \_\_\_\_\_  
 System to be Used For: Grapple  Skyline, Highlead, Slackline, Skidder  Balloon   
 System Purchased or Acquired From \_\_\_\_\_  
 Date System Purchased or Acquired: Day \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_  
 Mail Permit to \_\_\_\_\_  
 Date Application Mailed to Division of Safety Day / Mo. / Year \_\_\_\_\_

Date Permit Issued	Day / Mo. / Year
DIV. OF SAFETY USE ONLY	

PERMANENT

Dept. of Labor & Industries  
Div. of Consultation & Compliance  
P.O. Box 44650  
Olympia, WA. 98504-4650



### APPLICATION FOR PERMIT TO OPERATE RADIO SIGNAL SYSTEM IN DESIGNATED AREA

Firm name \_\_\_\_\_ Phone number \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP+4 \_\_\_\_\_

Radio carrier frequency \_\_\_\_\_ Receiver's serial no. \_\_\_\_\_

Tone coding frequencies \_\_\_\_\_

Name of manufacturer of signal system \_\_\_\_\_

Intended function of unit:  Voice communication  Whistle signal  Control equipment  Grapple  Highlead, Slackline, Skidder  Balloon  
 System to be used for:  
 Area in which unit will be operated (Area map included in Safety Standards for Logging Operations)

Type of tone:  Sequential  Simultaneous  If other, specify type \_\_\_\_\_

System purchased or acquired from \_\_\_\_\_ Date system purchased or acquired: \_\_\_\_\_

Mail permit to: \_\_\_\_\_ Department Use Only  
 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP+4 \_\_\_\_\_ Date Permit Issued \_\_\_\_\_

F416-087-000 app for permit 9-94

PERMANENT

Figure No. 10

STATE OF WASHINGTON  
DEPT. OF LABOR & INDUSTRIES DIV. OF SAFETY

PERMIT # \_\_\_\_\_

TO OPERATE MULTI-TONE RADIO SIGNAL SYSTEM  
IN DESIGNATED AREA.

Model \_\_\_\_\_ Serial \_\_\_\_\_  
Carrier Frequency \_\_\_\_\_ MHz  
Tones \_\_\_\_\_ Hz

AREA \_\_\_\_\_

Firm Name \_\_\_\_\_

Issued by \_\_\_\_\_

S. P. No. 158-12-71-25C. 38416.

Place this

Dept. of Labor & Industries  
Div. of Consultation & Compliance  
P.O. Box 44650  
Olympia, WA. 98504-4650



### RADIO PERMIT

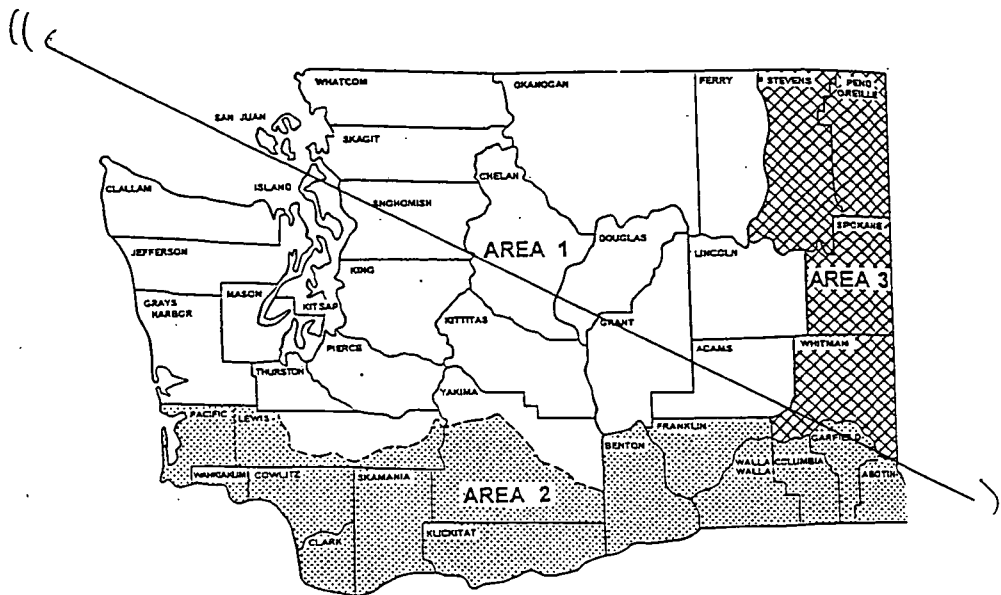
TO OPERATE MULTI-TONE RADIO SIGNAL SYSTEM IN  
DESIGNATED AREA.

MODEL	SERIAL
CARRIER FREQUENCY	MHz
TONES	Hz
AREA	
FIRM NAME	
ISSUED BY	

F416-086-000 RADIO PERMIT 10-88



**AREAS FOR USE OF RADIO SIGNALING SYSTEMS FOR  
LOGGING OPERATIONS**



State of Washington  
Department of Labor and Industries  
Division of Industrial Safety and Health

A permit issued by the department of labor and industries shall be attached to the outside of the receiver which shall indicate the area in which the radio signaling equipment may be used:)) (1) A valid operating permit must be obtained by the owner from the department of labor and industries, prior to putting into use any radio signaling or control system intended to be used in conjunction with any type of cable logging operations.

(a) Permits will be issued only for systems licensed for such use and using those carrier frequencies as authorized by the Federal Communications Commission.

(b) Permits will be granted only when tone or function frequencies are compatible with other radio systems in use and when in compliance with all other applicable requirements of this chapter.

(2) The department of labor and industries reserves the right to designate the use of radio frequencies for specific purposes or functions. For example: Frequencies may be specified for voice transmission of instruction, others for tone-coded functions, or activation of signaling devices.

(a) Single tone coded functions must not be used on radio equipment designed to initiate whistle signals, or to activate or control any machine, material-handling device, or other equipment hazardous to employees.

(b) The department may also designate which tone frequencies may be used for the activation of a signaling device or for control of equipment on certain federal communication assigned carrier frequencies.

(3) A list of tone frequencies that may be used with any Federal Communications Commission assigned carrier frequencies will be made available from the department upon request.

(4) The department will assign the area or areas in which a radio signaling system may be used and mark those areas on the permit. Radio signaling systems must not be used in any area other than the ones indicated on the permit. (See Figure 36: Areas for Use of Radio Signaling Systems for Logging Operations.)

(5) The person or firm name on the permit must be the same as the person or firm operating the radio signaling system except for loaner or rental sets. A person or firm using a loaner or rental set is responsible for the radio signal system as if they were the owner of the set.

(6) The application for a permit to use a radio signaling system must contain the following information (see Figure 37: Application for permit to operate radio signal system in designated area):

(a) Name and address of applicant.

(b) The radio frequencies of the radio signaling device in MHz.

(c) The tone frequencies of the radio signaling system used to activate a horn, whistle, or control equipment in Hz. The security gate, or pulse tone, must be shown first.

(d) The name of the manufacturer of the radio signaling system.

(e) The serial number of the receiving unit.

(f) The state assigned area or location in which the unit will operate.

(g) The type of signaling used.

(h) From whom the system was purchased or acquired, and the date of acquisition of the system.

(i) Intended use and function of the system.

(7) All radio equipment must meet all applicable FCC standards. FCC identifier numbers and required information must be visible when possible.

(8) Radio equipment must not be used without displaying a permit as required by this standard. The permit must be prominently displayed on the outside case of the receiver of the unit or, for radio-controlled carriages, on the transmitter in the yarder.

(9) Each radio receiver must have its radio carrier frequency in MHz and tone frequency(s) in Hz indicated on the outside case of the receiver (see Figure 38: Radio permit):

(a) The manufacturer's name and serial number must be permanently indicated on the outside of the case;

(b) When the duration or width of the tone frequencies performs a function, the one duration/width must also be permanently indicated on the outside of the receiver case;

(c) Each transmitter must be identified with its receiver; and

(d) Two or more receivers in operation simultaneously on the same tone frequencies are prohibited unless one is used for monitoring only.

(10) It shall be the responsibility of the owner of any radio signaling system to notify the department of labor and industries, immediately, if the signal system is:

(a) Permanently retired (in what manner and date retired);

(b) Sold (submit name and address of purchaser and date sold);

(c) Removed from the state (name of state to which moved and date moved); or

(d) Stolen (date).

(11) All radio signaling systems put into use for the first time after the effective date of these safety standards, shall meet or exceed the minimum performance specifications contained in WAC 296-54-607 of these safety standards, and, when altered or repaired, shall continue to meet such specifications.

(12) Adjustments, repairs, or alterations of radio signaling and control devices must be done only by or under the immediate supervision and responsibility of a qualified and certified radio technician with factory training or equivalent certified experience. Anyone without the technical ability or the proper equipment to cause the signaling systems to function within required tolerances must not attempt to repair, alter, or adjust the systems.

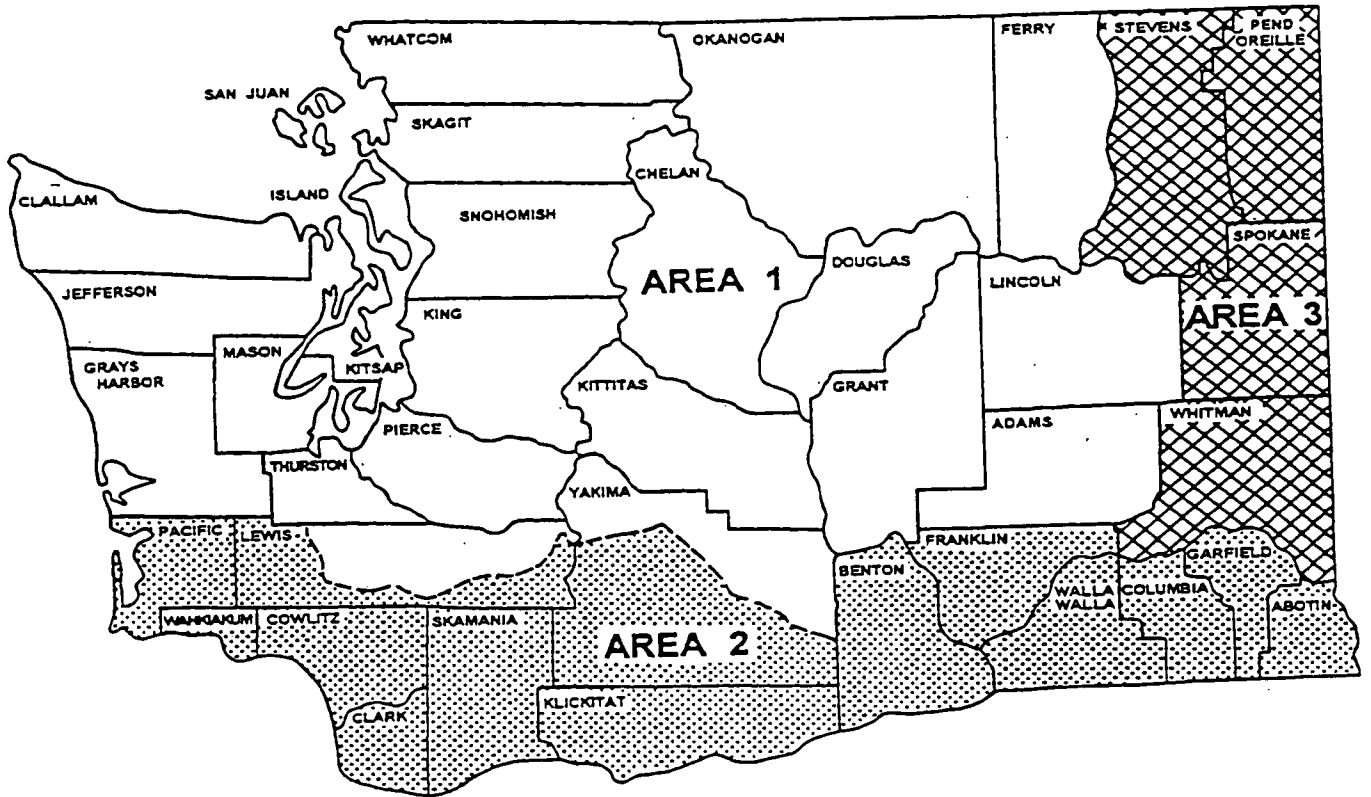
(13) When interference, overlap, fadeout, or blackout of radio signals is encountered, the use of the device must be discontinued immediately. Use may not be resumed until the source of trouble has been detected and corrected.

(14) Radio frequencies assigned to systems for which voice communications may be used to give signals to the yarder operator must not be the same frequencies as those assigned for whistle signals or machine control signals used in skyline, highlead, slackline, or cable skidder systems.

(15) When hazardous interference is created by moving a voice communication system into an area where a system is already in use on the same frequency, use of the newly-moved system must be immediately discontinued until the problem of interference has been corrected.

(16) Before moving any unit from one assigned geographical area to another (see area map, Figure 36: Areas for Use of Radio Signaling Systems for Logging Operations), the owner must apply for and receive a new permit from the department.

# AREAS FOR USE OF RADIO SIGNALING SYSTEMS FOR LOGGING OPERATIONS



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES  
DIVISION OF INDUSTRIAL SAFETY AND HEALTH

Figure 36: Areas for Use of Radio Signaling Systems for Logging Operations

PERMANENT

Form No. 157.

STATE OF WASHINGTON

5-1

DEPARTMENT OF LABOR AND INDUSTRIES

DIVISION OF SAFETY

APPLICATION FOR PERMIT TO OPERATE RADIO SIGNAL SYSTEM IN DESIGNATED AREA

Radio Carrier Frequency ..... Serial No. ....
Tone Coding Frequency ..... Hz ..... Name of Manufacturer of Signal System .....
Firm Name ..... Address ..... By .....
Intended Function of Unit: Voice communication [ ] Whistle signal [ ] Control Equipment [ ]
Area in which Unit will be Operated: ..... 1 [ ] ..... 2 [ ] ..... 3 [ ]
(Type map included in Safety Standards for Logging Operations)
Type of Tone: Sequential [ ] Simultaneous [ ] If other specify type .....
System to be Used For: Grapple [ ] Skyline, Highlead, Slackline, Skidder [ ] Balloon [ ]
System Purchased or Acquired From .....
Date System Purchased or Acquired: Day ..... Month ..... Year .....
Mail Permit to .....
Date Application Mailed to Division of Safety ...../...../.....
Day Mo. Year
Date Permit Issued ...../...../.....
Day Mo. Year
DIV. OF SAFETY USE ONLY

Figure 37: Application for Permit to Operate Radio Signal System in Designated Area

Dept. of Labor & Industries
Div. of Consultation & Compliance
P.O. Box 44650
Olympia, WA. 98504-4650



RADIO PERMIT

TO OPERATE MULTI-TONE RADIO SIGNAL SYSTEM IN DESIGNATED AREA.

MODEL SERIAL
CARRIER FREQUENCY MHz
TONES Hz
AREA
ISSUED BY

F416-086-003 RADIO PERMIT 10-88

Figure 38: Radio Permit

A permit issued by the department of labor and industries shall be attached to the outside of the receiver which shall indicate the area in which the radio signaling equipment may be used.

AMENDATORY SECTION (Amending Order 79-14, filed 9/21/79)

WAC 296-54-607 Radio signal systems—Specifications and test procedures. ((All radio-signaling systems put into use for the first time after the effective date of these rules shall meet or exceed the following requirements, specifications, tolerance, and tests and such systems, when altered or repaired, shall meet the same minimum requirements.

(1) Radio-signaling systems used to transmit whistle signals or control functions of equipment associated with skyline, highlead, slackline, or cable skidder systems of logging shall transmit and decode only by the use of authorized multi-tone frequencies. Only sequential tones may be used to transmit signals or control equipment when utilizing carrier frequencies of 154.57 or 154.60 MHz.

(2) The receiver sensitivity shall be capable of attaining .6 microvolt, or greater, for 12 db SINAD ratio for VHF frequencies and .7 microvolt, or greater, for UHF frequencies. Effective January 1, 1984, all radio systems receiver sensitivity shall be capable of attaining .4 microvolt, or greater, for 12 db SINAD ratio for VHF frequencies and .5 microvolt, or greater, for UHF frequencies. When interference is a factor, the receiver may be desensitized in the furtherance of safety by a person qualified in accordance with WAC 296-54-605(15).

(3) The receiver spurious attenuation shall be at least 40 db when measured by the 20 db quieting method. On all new

radio systems put into service after the effective date of these standards, the receiver spurious attenuation shall be at least 60 db when measured by the 20 db quieting method. Effective January 1, 1984, all new radio signal systems shall be required to have receiver spurious attenuation of at least 70 db when measured by the 20 db quieting method and shall have image response attenuation of 60 db when measured by the 20 db quieting method. Effective January 1, 1989, all radio signal systems shall be required to have receiver spurious attenuation of at least 70 db when measured by the 20 db quieting method and image response attenuation of 60 db when measured by the 20 db quieting method.

Note: Spurious response attenuation is a measure of the receiver's ability to discriminate between a desired signal to which it is resonant and an undesired signal at any other frequency to which it is also responsive.

(4) The receiver selectivity shall be more than 40 db plus or minus 30 KHz. All new radio signal systems put into service after the effective date of these standards, the receiver selectivity shall be at least 60 db plus or minus 30 KHz. Effective January 1, 1984, all new radio signal systems purchased and used shall have receiver selectivity of at least 80 db plus or minus 30 KHz. Effective January 1, 1989, all radio signal systems shall have receiver selectivity of at least 80 db plus or minus 30 KHz, when measured by the E.\*I.A. SINAD method.

(5) The receiver decoder tone frequency stability shall not exceed .006 (.6%) above or below the assigned tone frequency.

(6) The drift of a transmitter encoder tone shall not exceed .006 (.6%) above or below the assigned tone frequency.

(7) Parts of the radio signaling system affected by moisture, which may be subjected to the entrance of moisture during use, shall be weatherproofed. Transmitters shall be tested within fifteen minutes after being subjected to the following conditions and shall have the ability to continue functioning properly. The transmitter and receiver shall be placed in a humidity chamber for eight hours where the humidity has been maintained at not less than ninety percent and where a 40°C. temperature has been maintained.

(8) Radio signaling system units shall operate within tolerances specified at any temperature within the range of -30°C. to +60°C.

(9) Switches of transmitters used to send whistle signals or activate equipment associated with high lead, slackline, or cable skidder systems of logging shall be designed in such a manner whereby two buttons, motions or a combination of these shall be required simultaneously to cause activation of the system. Arrangement of the activating switches shall be such that the operator can transmit signals easily but cannot easily activate a control or command function accidentally.

(10) All receivers intended to be mounted on or in the yarder or similar equipment, and all portable transmitters, shall continue to maintain specified mechanical and electrical performance during and after being subjected to vibration of the magnitude and amplitude as follows:

The equipment shall be vibrated with simple harmonic motion having an amplitude of 0.015" (total excursion 0.03")

with the frequency varied uniformly between 10 and 30 Hz and an amplitude of 0.0075" (total excursion 0.015") with the frequency varied uniformly between 30 and 60 Hz. The entire cycle of frequencies for each group (i.e., 10 to 30 cycles and 30 to 60 cycles) shall be accomplished in five minutes and repeated three times. The above motion shall be applied for a total period of thirty minutes in each direction, namely, the directions parallel to both axes of the base and perpendicular to the plane of the base.

(11) All portable transmitters shall continue to maintain specified mechanical and electrical performance after being subjected to a shock test as follows:

The equipment shall be dropped once on each of five surfaces from a height of four feet onto a smooth concrete floor.

(12) Transmitters operating on carrier frequencies of 154.57 MHz and on 154.60 MHz shall be limited on maximum power output not to exceed 500 mW measured at the antenna terminals.

(13) To minimize the possibility of interference with other signaling systems, the input power of transmitters operating in the 450 MHz range should be limited to only the amount needed to transmit to the receiver of the system effectively.) All radio signaling systems put into use must meet or exceed the requirements of this section. When systems are altered or repaired they must continue to meet these requirements.

(1) Radio equipment in use at cable logging sites, which is primarily used for voice communication, must be on a separately assigned frequency from radio equipment primarily used to initiate whistles or other audible signaling devices or to control any machine, material handling device or other equipment hazardous to employees.

(2) Radio-signaling systems used to transmit whistle signals or control functions of equipment associated with skyline, highlead, slackline, or cable skidder systems of logging must transmit and decode only by the use of authorized multitone frequencies. Only sequential tones may be used to transmit signals or control equipment when using carrier frequencies of 154.57 or 154.60 MHz.

(3) All radio systems receiver sensitivity must be able to attain 0.4 microvolt, or greater, for 12 dB SINAD ratio for VHF frequencies and 0.5 microvolt, or greater, for UHF frequencies. When interference is a factor, the receiver may be desensitized in the furtherance of safety by a person qualified according to WAC 296-54-605(12).

(4) All radio signal systems must have receiver spurious attenuation of at least 70 dB when measured by the 20 db quieting method and image response attenuation of 60 db when measured by the 20 db quieting method. "Spurious response attenuation" is a measure of the receiver's ability to discriminate between a desired signal to which it is resonant and an undesired signal at any other frequency to which it is also responsive.

(5) All radio signal systems must have receiver selectivity of at least 80 db plus or minus 30 KHz, when measured by the E.\*I.A. SINAD method.

(6) The receiver-decoder tone frequency stability must not exceed 0.006 (0.6%) above or below the assigned tone frequency.

(7) The drift of a transmitter-encoder tone must not exceed 0.006 (0.6%) above or below the assigned tone frequency.

(8) Parts of the radio-signaling system affected by moisture, which may be subjected to the entrance of moisture during use, must be weatherproofed. Transmitters must be tested within fifteen minutes after being subjected to the following conditions and must have the ability to continue functioning properly. The transmitter and receiver must be placed in a humidity chamber for eight hours where the humidity has been maintained at not less than ninety percent and where a 40 degrees C. temperature has been maintained.

(9) Radio-signaling system units must operate within tolerances specified at any temperature within the range of -30 degrees C. to +60 degrees C.

(10) Switches of transmitters used to send whistle signals or activate equipment associated with high lead, slackline, or cable skidder systems of logging must be designed so that two buttons, motions or a combination of these are required simultaneously to cause activation of the system. Arrangement of the activating switches must allow the operator to transmit signals easily but not easily activate a control or command function accidentally.

(11) All receivers intended to be mounted on or in the yarder or similar equipment, and all portable transmitters, must continue to maintain specified mechanical and electrical performance during and after being subjected to vibration of the magnitude and amplitude as follows:

(a) The equipment must be vibrated with simple harmonic motion having an amplitude of 0.015" (total excursion 0.03") with the frequency varied uniformly between 10 and 30 Hz and an amplitude of 0.0075" (total excursion 0.015") with the frequency varied uniformly between 30 and 60 Hz.

(b) The entire cycle of frequencies for each group (i.e., 10 to 30 cycles and 30 to 60 cycles) must be accomplished in five minutes and repeated three times.

(c) The above motion must be applied for a total of thirty minutes in each direction, that is, the directions parallel to both axes of the base and perpendicular to the plane of the base.

(12) All portable transmitters must be able to maintain specified mechanical and electrical performance after being subjected to a shock test as follows: The transmitter shall be dropped five times from a height of four feet onto a smooth concrete floor. Each drop must impact a different surface of the transmitter.

(13) Transmitters operating on carrier frequencies of 154.57 MHz and on 154.60 MHz must be limited on maximum power output of 500 mW measured at the antenna terminals.

(14) To minimize the possibility of interference with other signaling systems, the input power of transmitters operating in the 450 MHz range should be limited to only the amount needed to transmit to the receiver of the system effectively.

## NEW SECTION

**WAC 296-54-701 Wood spar trees.** (1) Wood spar trees must be of sound material of sufficient size and strength to withstand any stresses which may be imposed by any equipment used for that specific logging operation.

(2) The top of the tree must extend not more than:

(a) Sixteen feet above the top guylines on spar trees over fifty feet tall; and

(b) Eight feet above the top guylines on spar trees less than fifty feet tall.

(3) School marms used as spar trees must be topped at the forks. Spar trees, except cedar, must be barked where guylines, straps, bull blocks, and tree plates are placed.

(4) Spar trees must be topped and limbs must be cut off close so that running lines will not foul or saw on protruding knots.

(5) At least four tree plates must be placed under top guylines on spar trees over fifty feet tall. At least three tree plates must be used on spar trees less than fifty feet tall.

(6) Tree plates must be equipped with lugs or other suitable means to hold them in place.

(7) Before raising spar trees, dummy trees must be topped and guyed with three guylines equivalent in breaking strength to the mainline.

(8) When spar trees are raised, stumps used for snubbing must be properly notched. Guylines must be held by a mechanical means. Snubbing by hand is prohibited.

(9) All rub trees must be limbed and topped.

(10) Loose material such as bark, spikes, straps or chains not in use and slabs caused by bumping logs or chafing straps must be removed from the spar trees. Heavy bark must be removed from trees used for a permanent installation.

(11) A person must ride only the passline to thread lines, to lubricate blocks, or to inspect rigging.

(12) When the friction lever and passline drum are on the opposite side of the machine from the operator, an experienced person must operate the friction lever while the engineer operates the throttle. While being used, the passline drum must be properly attended by another person to guide the passline onto the passline drum with a tool suitable for the purpose.

(13) Using a gypsy drum to handle employees in the tree is prohibited.

(14) A climber's rope must encircle the tree before the climber leaves the ground, except when the climber is riding the passline.

(15) Spikes, used by the climber as a temporary aid in hanging rigging, must be removed before the tree is used for logging.

(16) Topping trees in windy weather is prohibited.

(17) Topping, rigging-up, or stripping is prohibited when visibility is impaired.

(18) When heel tackle is fastened near the machine, a safety line must be placed in such manner that in case of breakage, lines do not strike the power unit and endanger the operator.

(19) Yarding with more than one unit on any one head spar is prohibited.

(20) The angle between the power unit, the high lead block, and the mainline road must not exceed a square lead on rigged spars. When using portable spars or towers, the location of the machine or position of the operator must ensure that the operator is not endangered by incoming logs.

#### NEW SECTION

##### **WAC 296-54-70110 Wood spar trees—Guylines.** (1)

Wood spar trees using a line greater than 7/8-inch and used as loading and yarding trees must have at least six top guys and four buckle guys, if a sail guy is used.

(2) Wood spar trees using a mainline greater than 7/8-inch and used only as yarding trees must have at least six top guys and must use at least three buckle guys.

(3) Wood spar trees using a mainline of 7/8-inch or less must be supported by at least five top guylines or other positive means of supporting the spar.

(4) Wood spar trees used for yarding with light equipment (7/8-inch or smaller mainline) must be guyed so that strains will be imposed on at least two guylines. If less than five top guys are used, guylines must be at least 1/4-inch larger than the mainline.

(5) Wood spar trees used for loading only with crotch line, spreader bar, or swinging boom must have at least four top guys and must use at least three buckle guys.

(6) More guylines must be added if there is any doubt about the stability of a spar tree, raised tree, tail tree, lift tree, or other equipment or rigging they support.

(7) Wood spar trees used for transfer must have at least five top guys and must use at least three buckle guys.

(8) Guylines must alternately be passed around the wood spar in opposite directions to prevent twisting of the spar.

(9) Guylines must be attached to the upper portion of the wood spar by shackles.

(10) When a high lead block is hung below buckle guys, at least three top guys of equal strength to the mainline must be used to keep the top from swaying.

(11) When buckle guys are required, they must be installed on the tree where they will provide the maximum effectiveness.

#### NEW SECTION

##### **WAC 296-54-70120 Wood spar trees—Passlines.** All spar trees must be equipped with passlines that are:

(1) At least 5/16-inch and a maximum of 1/2-inch in diameter;

(2) Not subjected to sawing on other lines or rigging, and are kept clear of all moving lines and rigging;

(3) A continuous length and in good condition with no splices, knots, molles, or eye-to-eye splices between the ends; and

(4) Long enough to provide three wraps on the drum before the climber leaves the ground.

#### NEW SECTION

##### **WAC 296-54-70130 Wood spar trees—Straps.** (1)

Safety straps of appropriate size must be placed on all high

lead blocks; and other blocks whenever practicable. Safety straps must be shackled (with the closed end of the shackle up) to a guyline that extends as near as possible at right angles with the power unit, but must not be on a guyline with an extension within one hundred feet of the tree. When the top guyline on which the safety strap of the high lead block is fastened is changed, the safety strap must be attached to another guyline or the loosened guyline must be tightened after the change.

(2) All tree straps must be at least 1/4-inch larger than the pulling line. If impossible to use a safety strap, all tree straps must be 1/2-inch larger than the pulling line.

(3) Lead blocks used for yarding, swinging, loading, and unloading used in wood spars must be:

(a) Designed and constructed for this purpose;

(b) Bolted with at least two bolts through the shells below the sheaves in a manner that will retain the sheave and line in case of bearing pin failure (this does not apply to haul-back lead blocks); and

(c) Mainline blocks have a sheave diameter of at least twenty times the diameter of the mainline.

#### NEW SECTION

##### **WAC 296-54-705 Truck and equipment maintenance shops.**

It is recognized that the usual hazards encountered in maintenance shops performing work on logging and related equipment would be very similar to those found in general repair, machine or welding shops; therefore, the rules contained in chapter 296-24 WAC, General safety and health standards and other applicable safety standards promulgated and administered by the department of labor and industries shall apply to such places of work.

#### NEW SECTION

**WAC 296-54-707 Labor camps.** Temporary labor camps for logging operations must meet the requirements of WAC 296-24-125.

AMENDATORY SECTION (Amending Order 72-14, filed 7/31/72, effective 9/1/72)

WAC 296-54-99002 Appendix((1 ~~Figure 2~~ High lead yarding system)) 1—Signals.

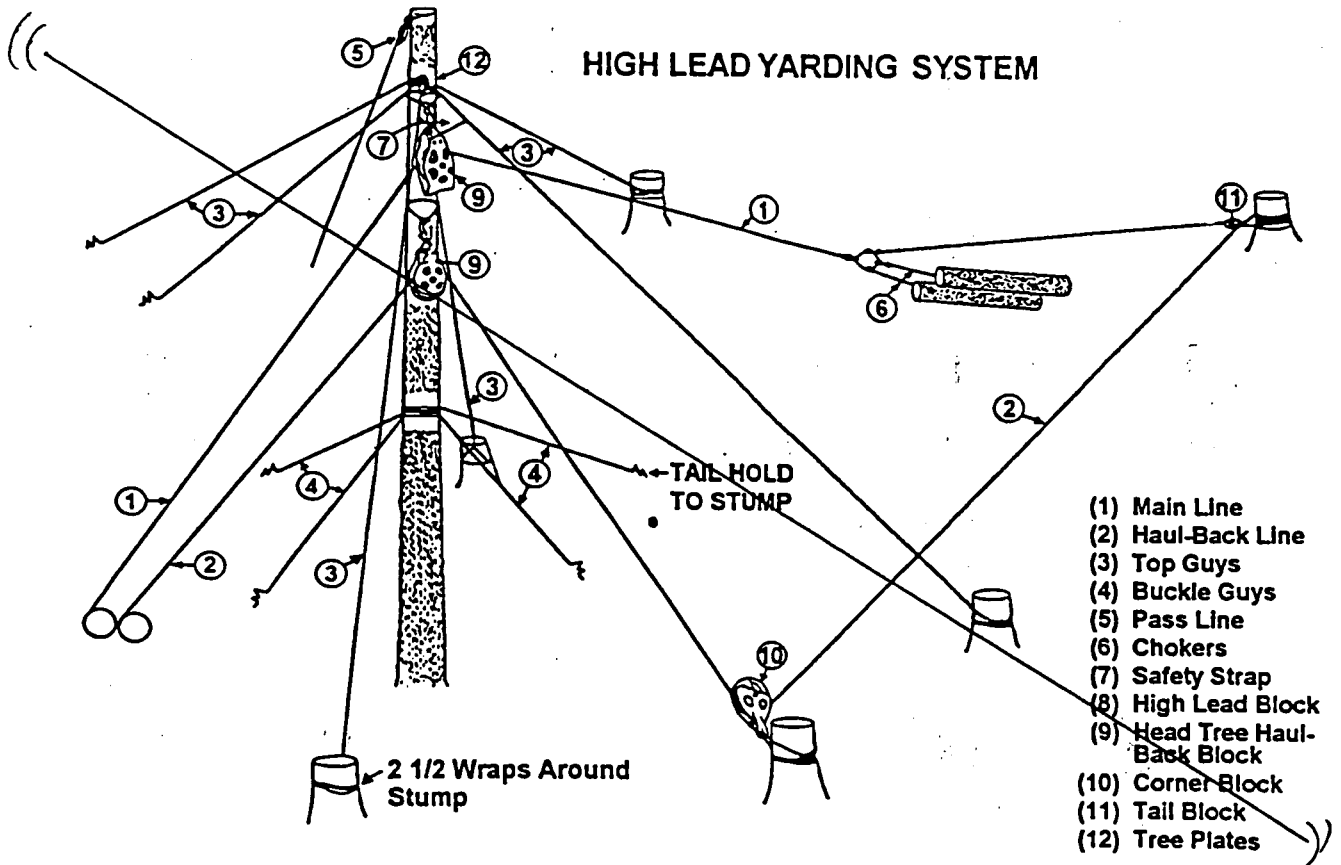


Figure 2:))

PERMANENT



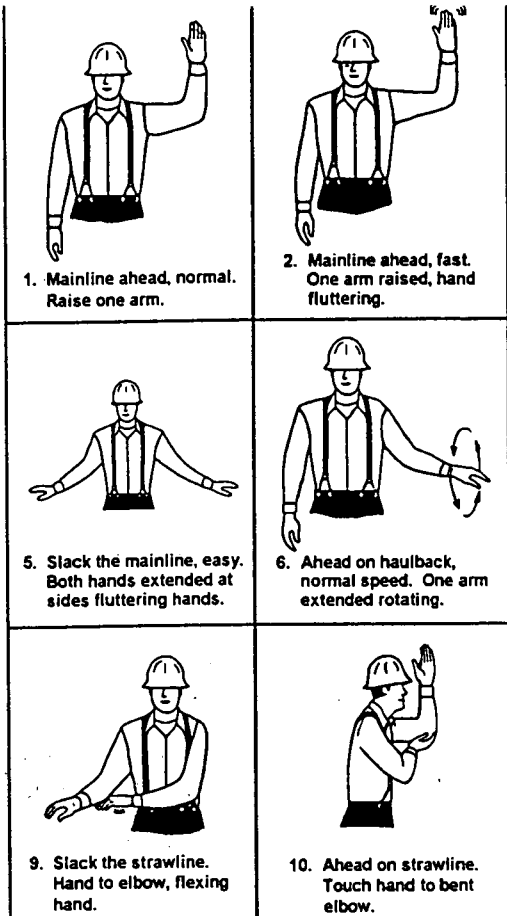


Figure 39: Standard Hand Signals

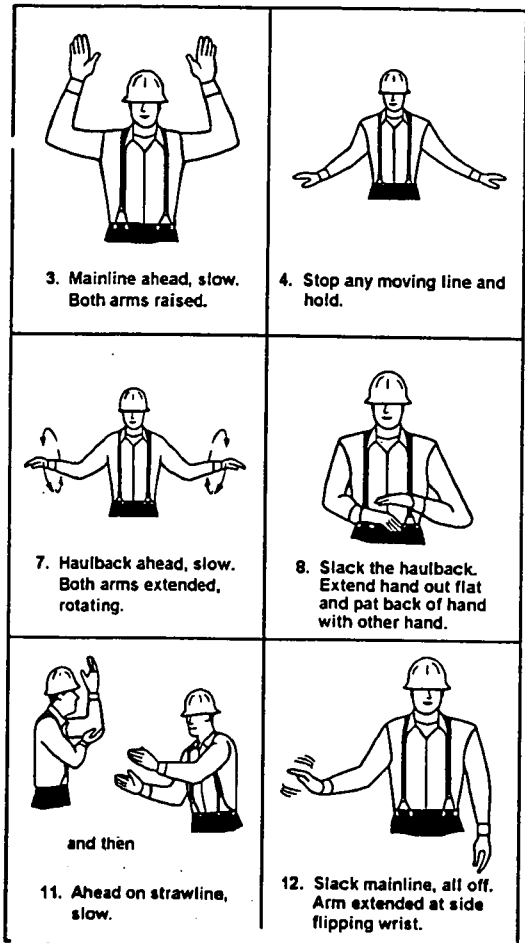


Figure 40: Standard Hand Signals

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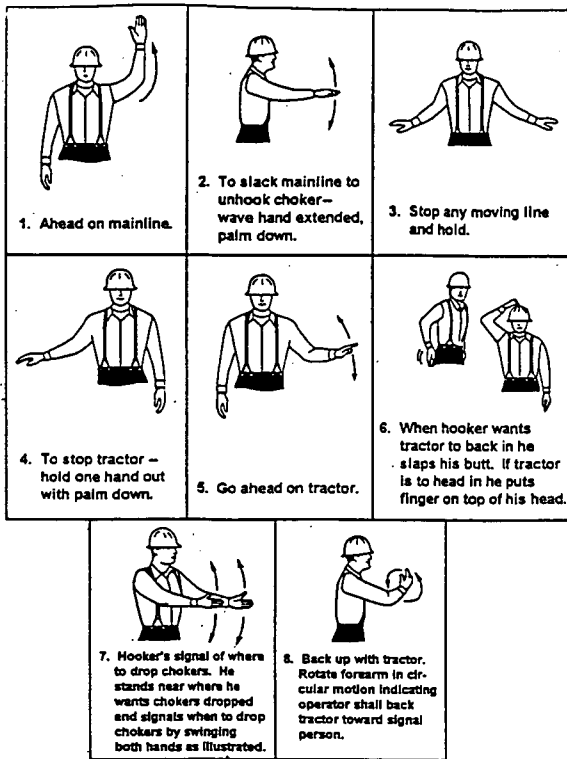


Figure 41: Standard Hand Signals

STANDARD SIGNALS FOR LOADING LOGS



Figure 42: Standard Signals for Loading Logs

PERMANENT

**HIGH LEAD LOGGING WHISTLE SIGNALS**  
**- Means longer spacing between signals.**

- |  |   |
|--|---|
| <u>1 short</u>                             | <u>Stop all lines.</u>  |
| <u>3 short-3 short</u>                     | <u>Ahead slow on mainline.</u>  |
| <u>3 short</u>                             | <u>Ahead on mainline.</u>   |
| <u>2 short</u>                             | <u>Ahead on haulback.</u>   |
| <u>2 short-2 short</u>                     | <u>Ahead slow on haulback.</u>  |
| <u>3 short-1 short</u>                     | <u>Ahead on strawline.</u>  |
| <u>3 short-1 short-3 short</u>             | <u>Ahead slow on strawline.</u>   |
| <u>4 short or more</u>                     | <u>Slack mainline.</u>  |
| <u>2 short-4 short</u>                     | <u>Slack haulback.</u>  |
| <u>3 short-1 short-4 short</u>             | <u>Slack strawline.</u>   |
| <u>3 short-2 short</u>                     | <u>Standing tight line.</u>   |
| <u>1 short-1 short</u>                     | <u>Tight line while lines are running, or break if running tight.</u>                 |
| <u>3 short</u>                             | <u>When rigging is in: Strawline back on haulback.</u>                                |
| <u>3 short / plus "X" number of shorts</u> | <u>When rigging is in: Indicates number of sections of strawline back on rigging.</u> |
| <u>3 short-1 short-2 short</u>             | <u>Strawline back on rigging.</u>   |

**HIGH LEAD LOGGING WHISTLE SIGNALS**

**- Means longer spacing between signals.**

<u>1 short</u>	<u>When rigging is in: Chaser inspect and repair rigging.</u>
<u>2 short</u>	<u>When rigging is in: No chokers back.</u>
<u>2 short-1 short / plus "X" number of shorts</u>	<u>Number of chokers back.</u>
<u>2 short-4 short</u>	<u>When rigging is in: Slack haulback-hold all lines until 2 short blown.</u>
<u>3 medium</u>	<u>Hooker.</u>
<u>3 medium-4 short</u>	<u>Hooker and that crew.</u>
<u>5 long</u>	<u>Climber.</u>
<u>4 long</u>	<u>Foreman.</u>
<u>1 long-1 short</u>	<u>Start or stop work.</u>
<u>7 long-2 short</u>	<u>Person injured, call transportation and stretcher.</u>
<u>1 long-1 short repeated</u>	<u>Fire.</u>
<u>Grabinski system</u>	
<u>2 short-1 short</u>	<u>Slack mainline and haulback together.</u>
<u>2 long</u>	<u>Take off or put on rider block.</u>

**SKIDDER WHISTLE SIGNALS**

**- Means longer spacing between signals.**

<u>1 short</u>	<u>Stops moving carriage-stops or goes ahead on slack puller, as case may be, if carriage is stopped.</u>
<u>2 short</u>	<u>Go ahead on skidding line holding carriage.</u>
<u>1 short-2 short</u>	<u>Pick up skidding line, easy.</u>
<u>2 short-1 short</u>	<u>Shake up carriage to clear choker.</u>
<u>2 short-2 short</u>	<u>Ahead on receding line.</u>
<u>3 short</u>	<u>Ahead on carriage, holding at present level, using interlock.</u>
<u>3 short-3 short</u>	<u>Ahead easy on skidding line.</u>
<u>2 short-2 short-2 short</u>	<u>Slack skyline, cable down.</u>
<u>2 short-2 short-2 short-1 short</u>	<u>Pick up skyline, cable up.</u>
<u>2 short-2 short-4 short</u>	<u>Slack receding line.</u>
<u>2 short-4 short</u>	<u>Slack skidding line.</u>
<u>2 short-2 short-1 short</u>	<u>Tighten all lines.</u>

**SKIDDER WHISTLE SIGNALS**

**- Means longer spacing between signals.**

<u>1 short-4 short</u>	<u>Slack off slack puller.</u>
<u>1 short-2 short</u>	<u>Pick up slack puller when slack.</u>
<u>2 short-2 short / plus "X" number of shorts</u>	<u>When carriage is in: Number of chokers wanted.</u>
<u>2 short-2 short-1 long</u>	<u>Bull choker.</u>
<u>1 short</u>	<u>When carriage is in: Inspect butt rigging.</u>
<u>2 short-4 short / 1 short</u>	<u>For each additional ten feet of tong line.</u>
<u>1 long / plus "X" number of shorts</u>	<u>Number of coils of strawline wanted.</u>
<u>5 medium</u>	<u>Tail or second rigger.</u>
<u>5 medium-4 short</u>	<u>Tail or second rigger and that crew.</u>
<u>2 medium</u>	<u>Skidder head rigger.</u>
<u>3 medium-4 short</u>	<u>Hooker and that crew.</u>
<u>2 long</u>	<u>Ahead on transfer.</u>
<u>2 long-4 short</u>	<u>Slack transfer.</u>
<u>1 short-3 short</u>	<u>Ahead on carriage with slack puller line.</u>
<u>1 long</u>	<u>Ahead on strawline.</u>
<u>1 long-4 short</u>	<u>Slack strawline.</u>
<u>1 long-3 short</u>	<u>Ahead easy on strawline.</u>
<u>5 long</u>	<u>Climber.</u>
<u>4 long</u>	<u>Foreman.</u>
<u>1 long-1 short</u>	<u>Start or stop work.</u>
<u>7 long-2 short</u>	<u>Person injured, call transportation and stretcher.</u>
<u>1 long-1 short repeated</u>	<u>Fire.</u>

**SLACKLINE WHISTLE SIGNALS**

**- Means longer spacing between signals.**

<u>2 short-2 short-2 short-1 short</u>	<u>First cable up when road has been changed and tail hold made fast.</u>
<u>2 short-2 short-2 short</u>	<u>Drop skyline.</u>
<u>1 short</u>	<u>Stop any moving line.</u>
<u>1 long</u>	<u>When logging, slack skyline.</u>
<u>2 short</u>	<u>Ahead on skyline.</u>
<u>1 long-2 short</u>	<u>Ahead easy on skyline.</u>
<u>3 short</u>	<u>Ahead on skidding line, holding haulback.</u>
<u>3 short-3 short</u>	<u>Ahead easy on skidding line with slack haulback.</u>
<u>4 short</u>	<u>Slack skidding line.</u>

PERMANENT

**SLACKLINE WHISTLE SIGNALS**

**- Means longer spacing between signals.**

2 short-2 short /2 short-2 short      Ahead easy on haulback with slack skidding line.  
2 short-2 short                      Ahead on haulback.  
2 short-2 short-4 short              Slack haulback.  
2 short / 3 short                      Pick up skyline and skid.  
2 short / 2 short-2 short              Pick up skyline and skin.  
3 short-1 short                      When carriage is in: Straw-line back on haulback.  
3 short-1 short-2 short              When carriage is in: Straw-line back on carriage.  
3 short-1 short                      When strawline is out: Ahead on strawline.  
3 short-2 short                      Tight line.  
3 short-1 short-4 short              Slack strawline.  
3 short-1 short-3 short              Pull easy on strawline.  
2 long                                  Ahead on transfer.  
2 long-4 short                      Slack transfer.  
2 long-2 short-2 short              When carriage is in: Transfer back on carriage.  
1 long / plus "X" number of shorts      When carriage is in: Number of coils.  
2 short-2 short-1 short /plus "X" number of shorts      When carriage is in: Number of chokers.  
1 short                                  When carriage is in: Inspect rigging, repair and send back.  
2 short-2 short-4 short              When carriage is in: Slack haulback and hold all lines until 1 short is blown-then send back.  
3 short-3 short                      When carriage is in: Send back powder.  
5 medium                              Tail rigger.  
5 medium-4 short                      Tail rigger and that crew.  
3 medium                              Head hooker.  
3 medium-4 short                      Second hooker and that crew.  
5 long                                  Climber.  
4 long                                  Foreman.  
1 long-1 short                      Start or stop work.  
7 long-2 short                      Person injured, call transportation and stretcher.  
1 long-1 short repeated              Fire.

**RUNNING SKYLINE WHISTLE SIGNALS**

**- Means longer spacing between signals.**

1 short                                  Stop all moving lines.  
2 short                                  Skin carriage back.  
2 short-1 short                      Slack haulback.  
2 short-2 short                      Skin carriage easy.  
2 short-3 short                      Standing tight line.  
1 short-2 short                      Ahead on drop line.  
4 short                                  Slack drop line.  
1 short-4 short                      Slack both mainlines.  
1 short-1 short                      Stop drop line going up and move carriage forward.  
3 short                                  Move carriage forward.  
3 short-3 short                      Move carriage forward easy.  
3 short-1 short                      When strawline is out: Ahead on strawline.  
3 short-1 short-4 short              Slack strawline.  
3 short                                  When carriage is in: Straw-line.  
3 short-X short                      When carriage is in: Number sections.  
3 short-1 short-2 short              When carriage is in: Straw-line back on carriage.  
2 short-X short                      When carriage is in: Number of chokers.  
4 short                                  When carriage is in: Inspect rigging, repair and send back.  
1 short                                  When carriage is in: Hold all lines until 2 shorts, then send back.  
3 medium                              Head hooker.  
3 medium-4 short                      Hooker and that crew.  
4 long                                  Foreman.  
1 long-1 short                      Start or stop work.  
7 long-2 short                      Person injured; call transportation and stretcher.  
1 long-1 short (repeated)              Fire.  
3 short-1 long                      Acknowledged by engineer to signify hazardous turn.

**TENSION SYSTEM SIGNALS**

4    Release tension.  
1 short                                  Stop carriage and start unspooling tong line.  
1 short                                  Stop tong line.  
1 short                                  Resume unspooling tong line.

PERMANENT

**TENSION SYSTEM SIGNALS**

<u>1 short</u>	<u>Will stop any moving line or slack tong line when carriage is stopped.</u>
<u>2 short-2 short</u>	<u>Go into interlock and go back.</u>
<u>2 short-4 short</u>	<u>Slack haulback and let carriage down.</u>
<u>After turn is set 2 short</u>	<u>Go ahead on tong line.</u>
<u>2 short-3 short</u>	<u>Go ahead easy on tong line.</u>
<u>3 short</u>	<u>Go into interlock and take carriage to landing.</u>
<u>3 short-3 short</u>	<u>Ahead on carriage easy.</u>
<u>1 short-2 short</u>	<u>Increase tension on tong line when carriage is going in.</u>
<u>short-1 short</u>	<u>Decrease tension on tong line when carriage is going in.</u>

**AMENDATORY SECTION** (Amending Order 72-14, filed 7/31/72, effective 9/1/72)

WAC 296-54-99003 Appendix ((~~1~~ ~~Figure 3~~ ~~North Bend yarding system~~)) 2 **Sample minimum lockout/tagout procedure.**

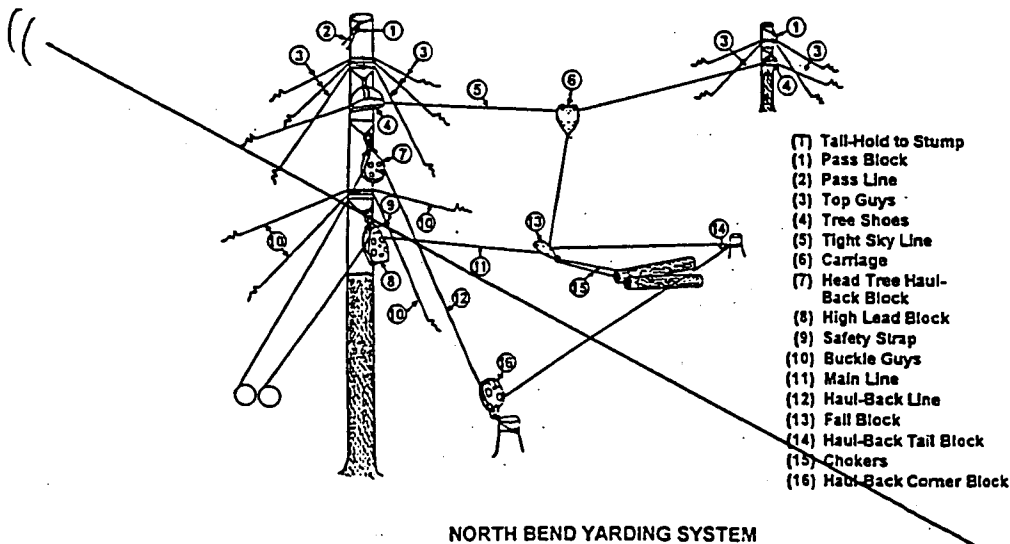


Figure 3.))

(Company Name) has established this lockout/tagout program to provide protection for employees performing maintenance or servicing of logging equipment.

Before any employee begins maintenance or servicing of equipment where the unexpected energizing, start-up, or release of stored energy could cause injury, the equipment must be shut down, isolated from all potentially hazardous energy and locked or tagged out.

Employees must not start, attempt to start, energize or use equipment that has been locked or tagged out. Tags and/or padlocks will be provided for tagging and/or locking out logging machinery and will be durable enough to withstand the environment. Tags will contain a legend such as: "Do Not Start" or "Do Not Operate." When tagout is used, tags must be located in a position that will be obvious to anyone attempting to operate the machinery. In lockout, pad-

locks are commonly used to prevent access to ignition/master switches or battery disconnects.

Employees performing maintenance or servicing must determine which sources of hazardous energy must be disabled for a particular job. The following are examples of hazardous stored energy found on logging equipment:

- Equipment
- Hydraulic or pneumatic pressure
- Mechanical (rotating saws, springs, shafts, gears, etc.)
- Gravity (elevated blades, booms, grapples, saw heads, etc.)

The following steps must be followed for lockout/tagout:

- Ensure that the brakes, swing locks, etc. are applied.
- Place the transmission in the manufacturer's specified park position.

• Lower or secure each moving element such as, but not limited to, blades, booms, grapples, buckets, saws, and shears to prevent a release of stored energy.

• Shut down machinery, and ensure that a responsible person removes and keeps the ignition/master key.

• Engage hydraulic safety locks when applicable.

• Before working on hydraulic or air systems, relieve pressure by bleeding tanks or lines and operate controls to dissipate residual stored energy (pressure).

• Place lockout and/or tagout device.

Before lockout or tagout devices are removed and machinery is started, inspect the work area to ensure all tools have been removed, guards are replaced, and employees are in the clear.

We will provide training to ensure that the purpose and function of the lockout/tagout program are understood by employees performing maintenance or repair of equipment.

**AMENDATORY SECTION** (Amending Order 72-14, filed 7/31/72, effective 9/1/72)

**WAC 296-54-99004 Appendix ((1— ~~Figure 4— Slack skyline yarding system~~) ) 3— Industry consensus standards.**

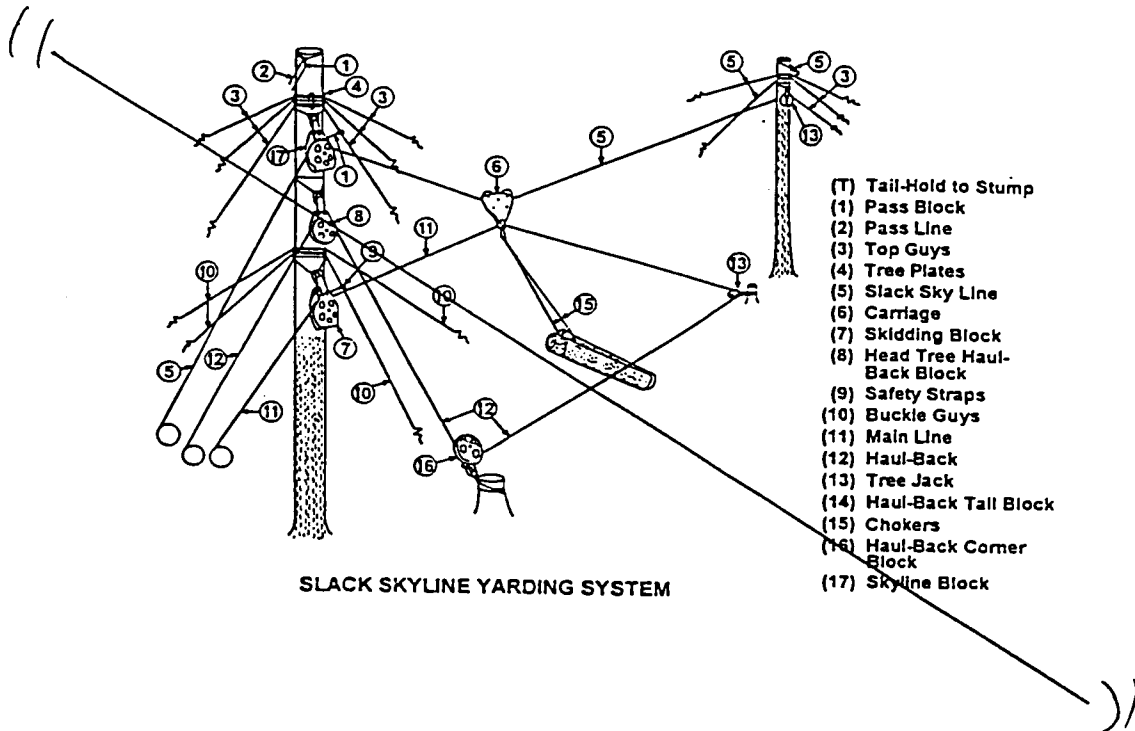


Figure 4.))

American Society of Mechanical Engineers  
ASME  
345 East 47th Street  
New York, NY 10017  
(212) 591-7000

Society of Automotive Engineers, Incorporated  
SAE  
400 Commonwealth Drive  
Warrendale, PA 15096-0001  
(412) 776-4841

American National Standards Institute  
11 West 42nd Street  
New York, NY 10036  
(212) 642-4900

Occupational Safety and Health Administration's Office  
of  
Publications  
OSHA  
Room N 3101, 200 Constitution Avenue Northwest  
Washington, DC 20210  
(202) 219-4667

PERMANENT

NEW SECTION

WAC 296-54-99013 Appendix 4—Various types of cable logging systems.

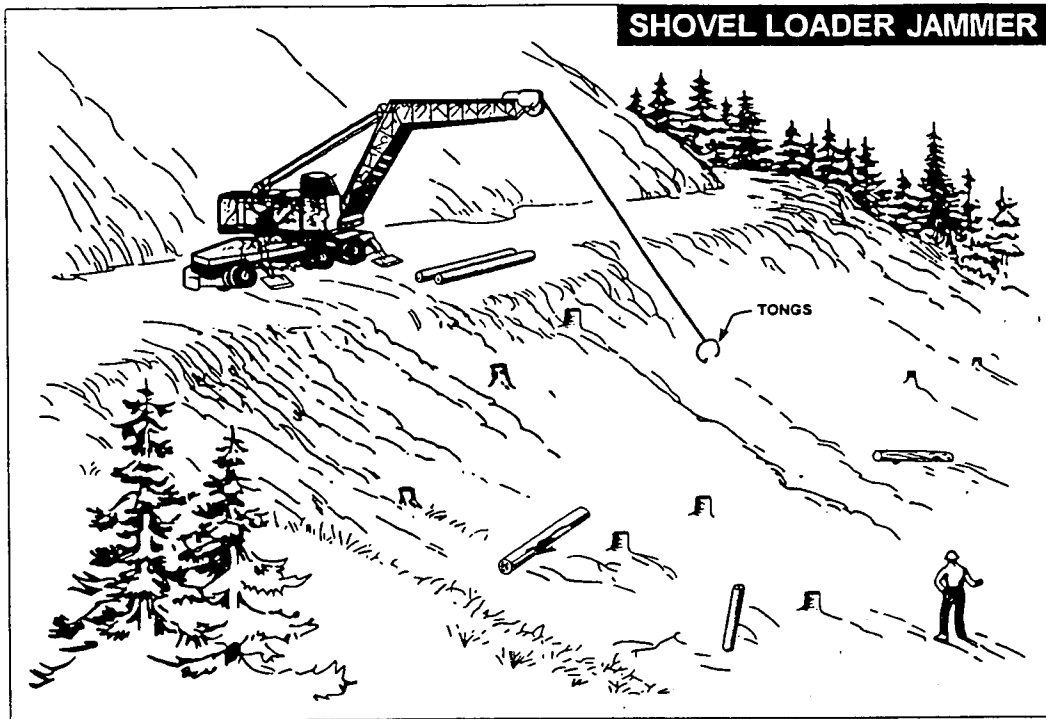


Figure 43: Shovel Load Jammer

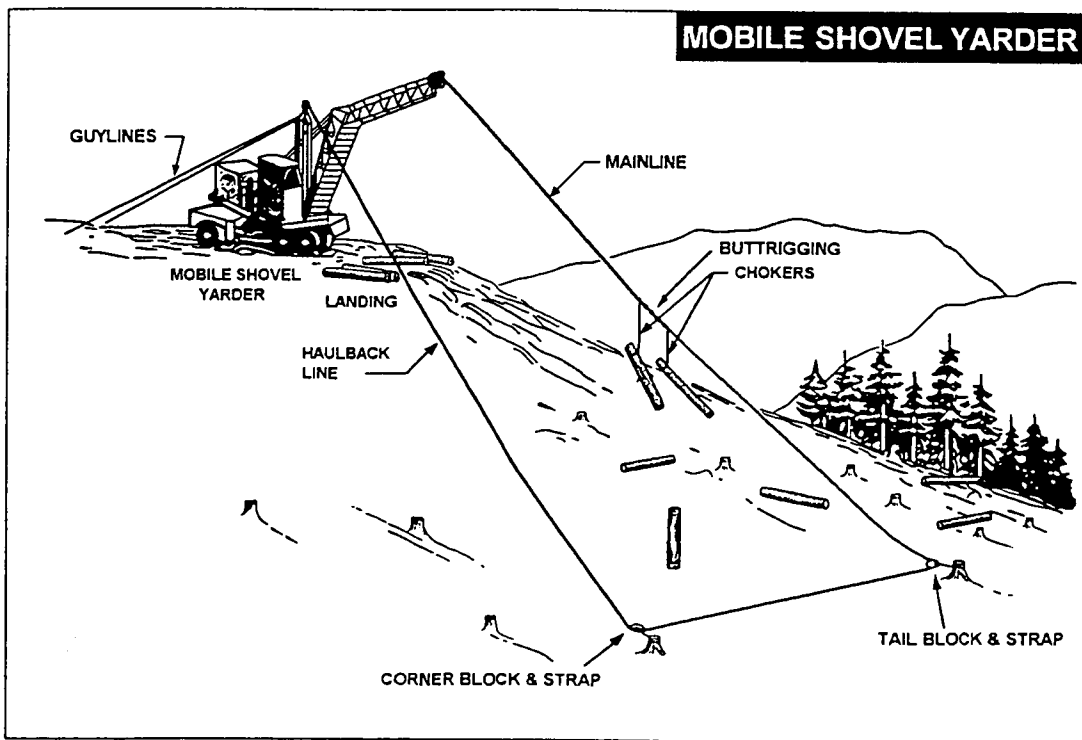


Figure 44: Mobile Shovel Yarder

PERMANENT

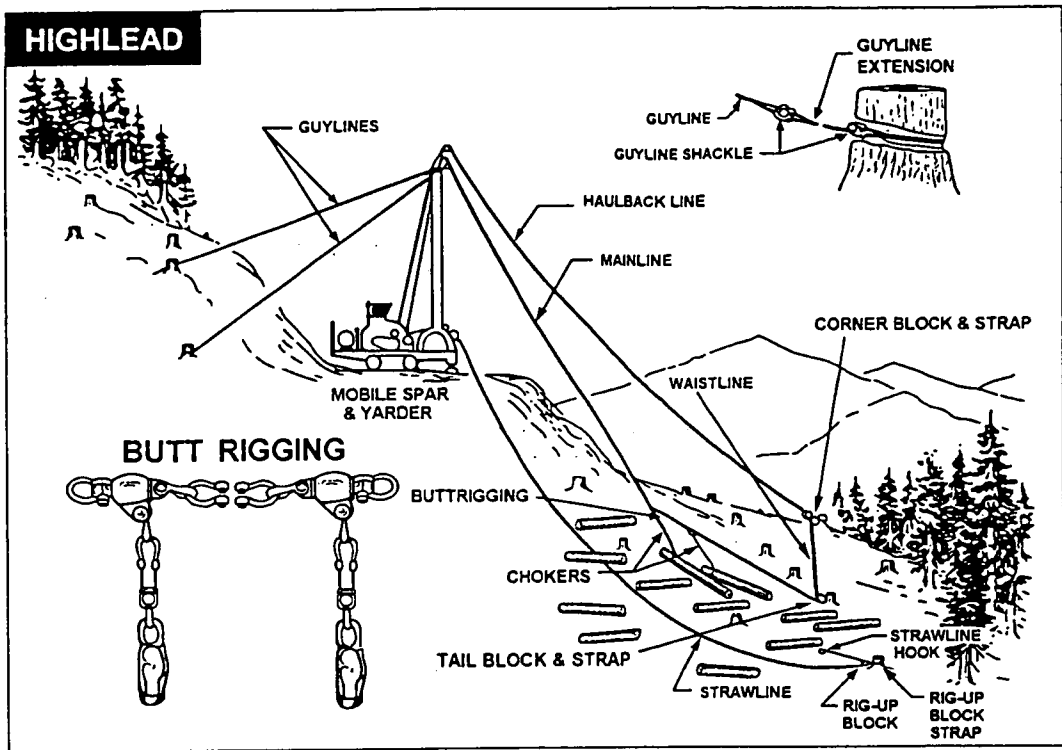


Figure 45: Highlead

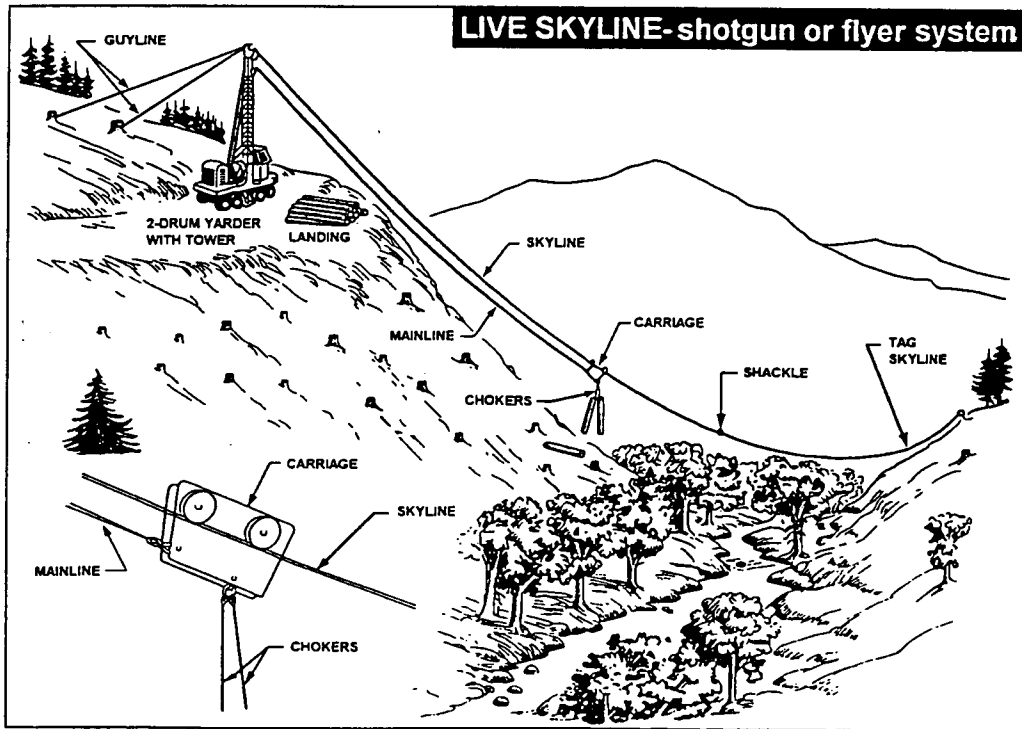


Figure 46: Live Skyline – Shotgun or Flyer System

PERMANENT



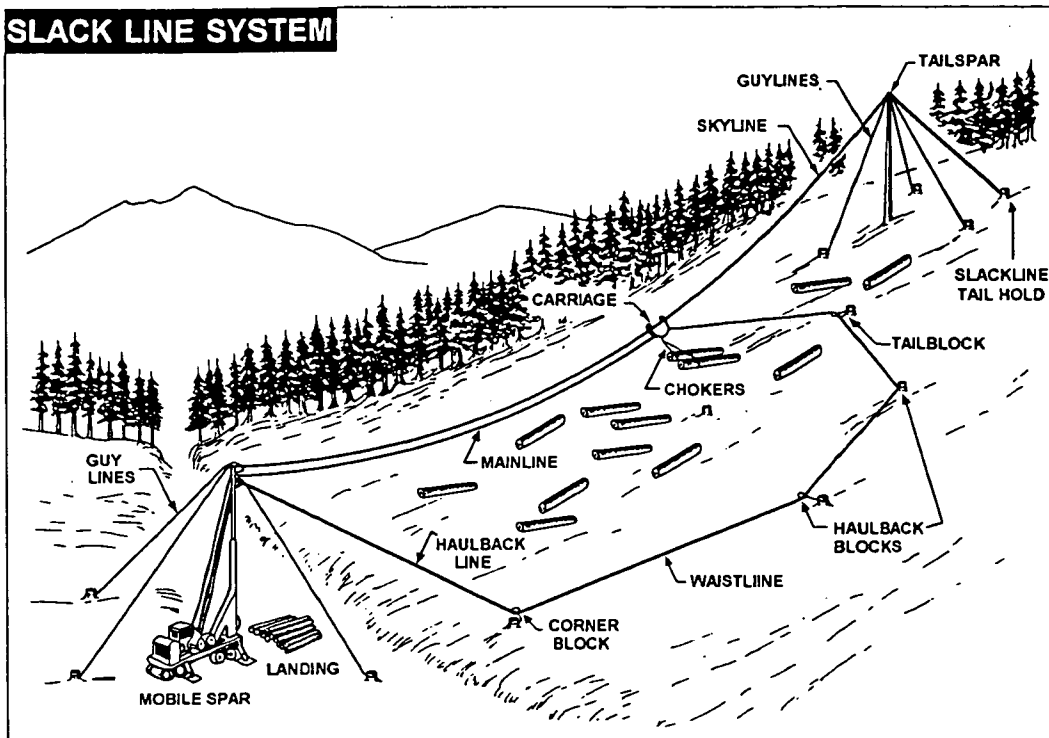


Figure 47: Slack Line System

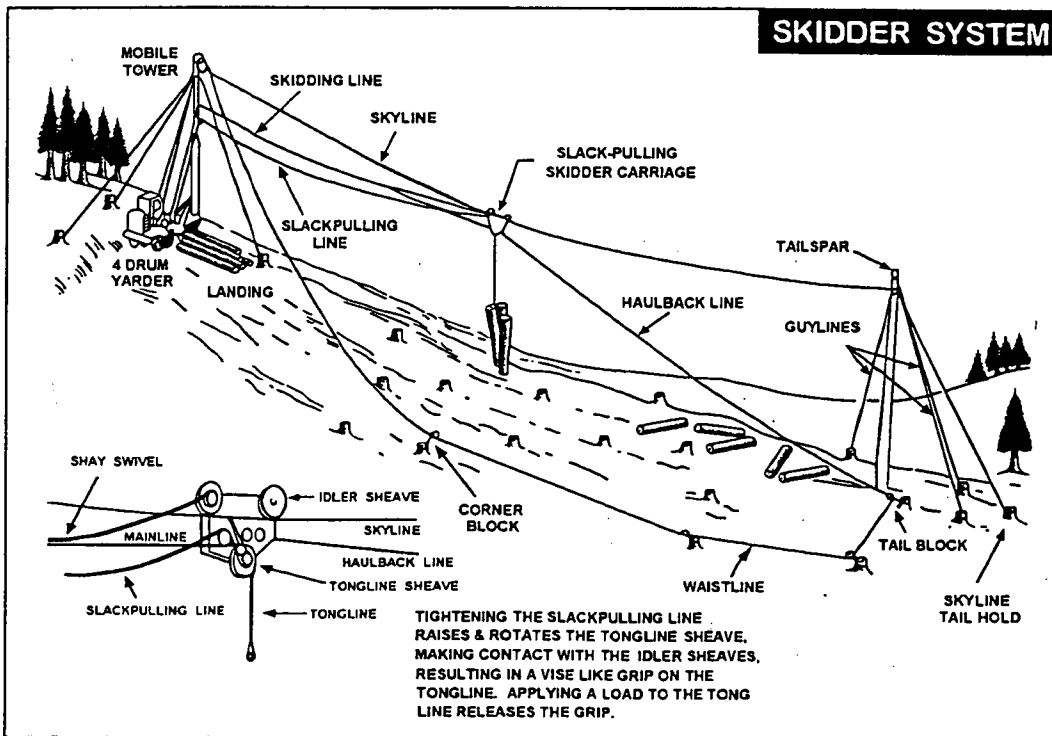


Figure 48: Skidder System

PERMANENT

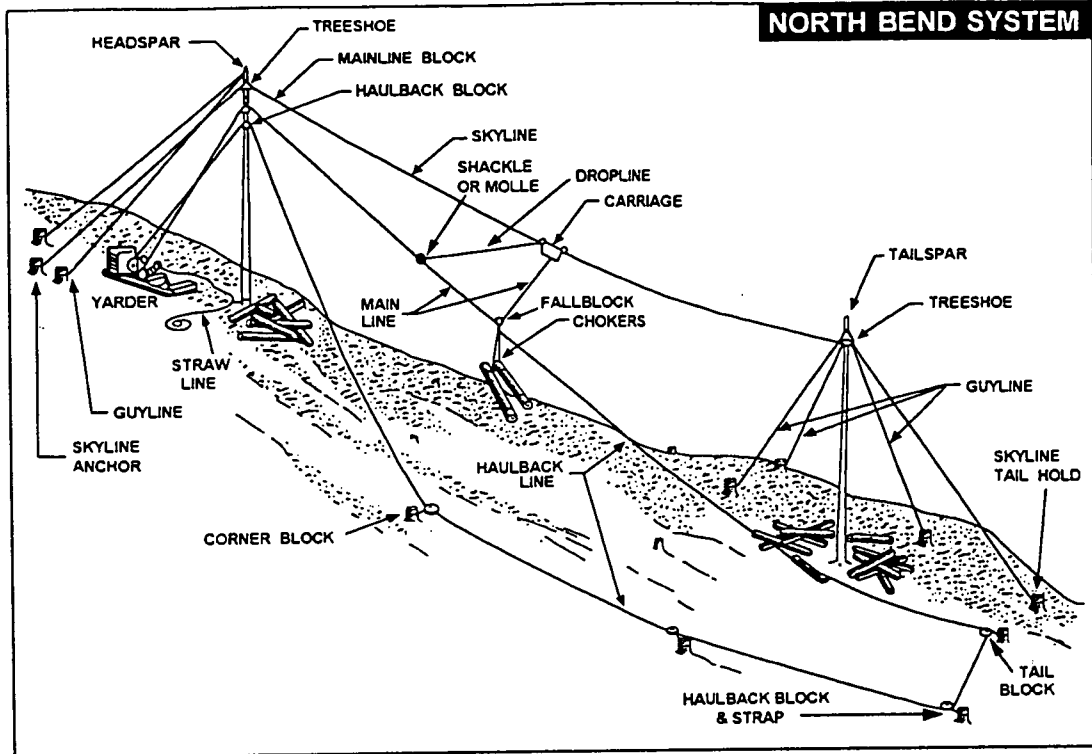


Figure 49: North Bend System

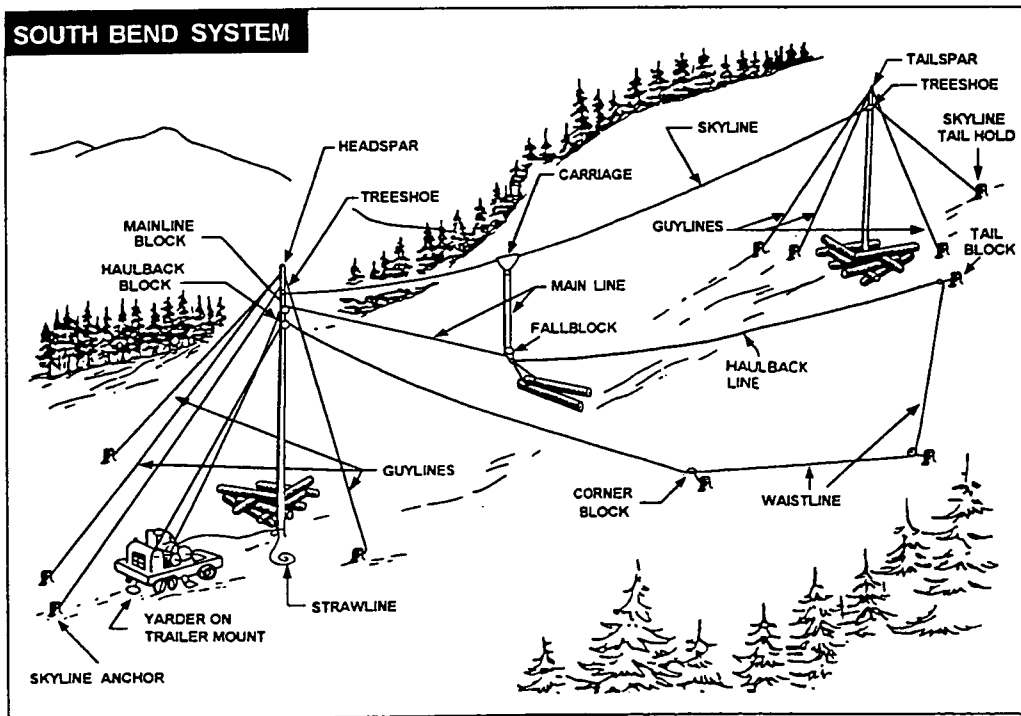


Figure 50: South Bend System

PERMANENT

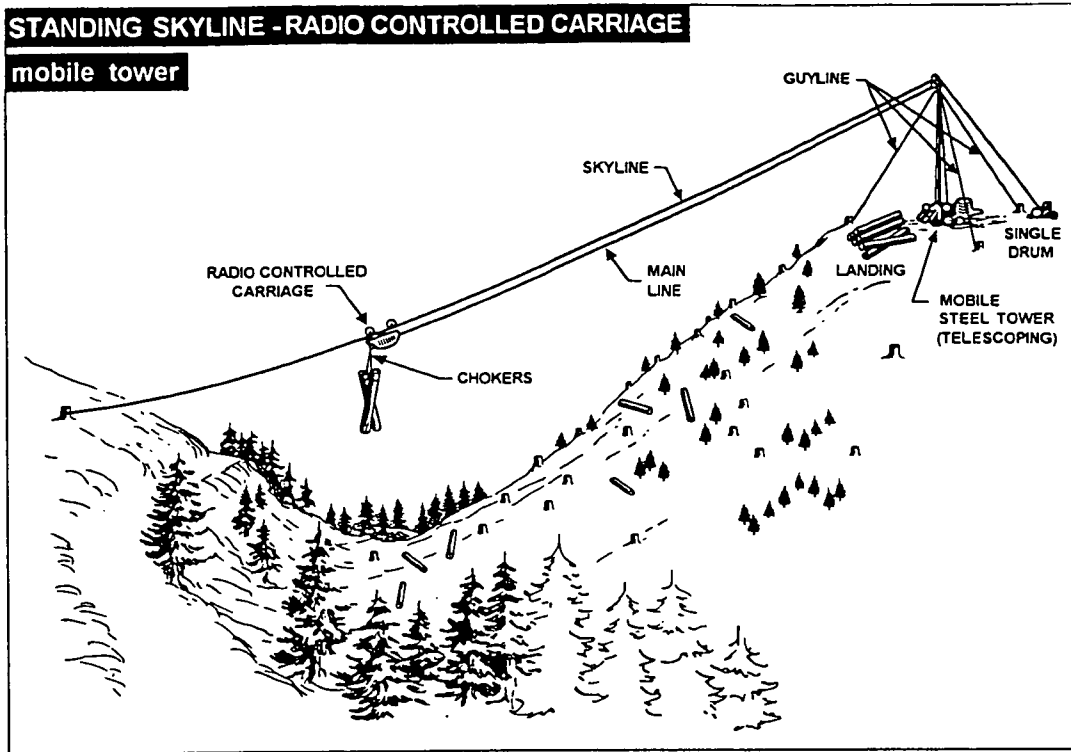


Figure 51: Standing Skyline – Radio Controlled Carriage – Mobile Tower

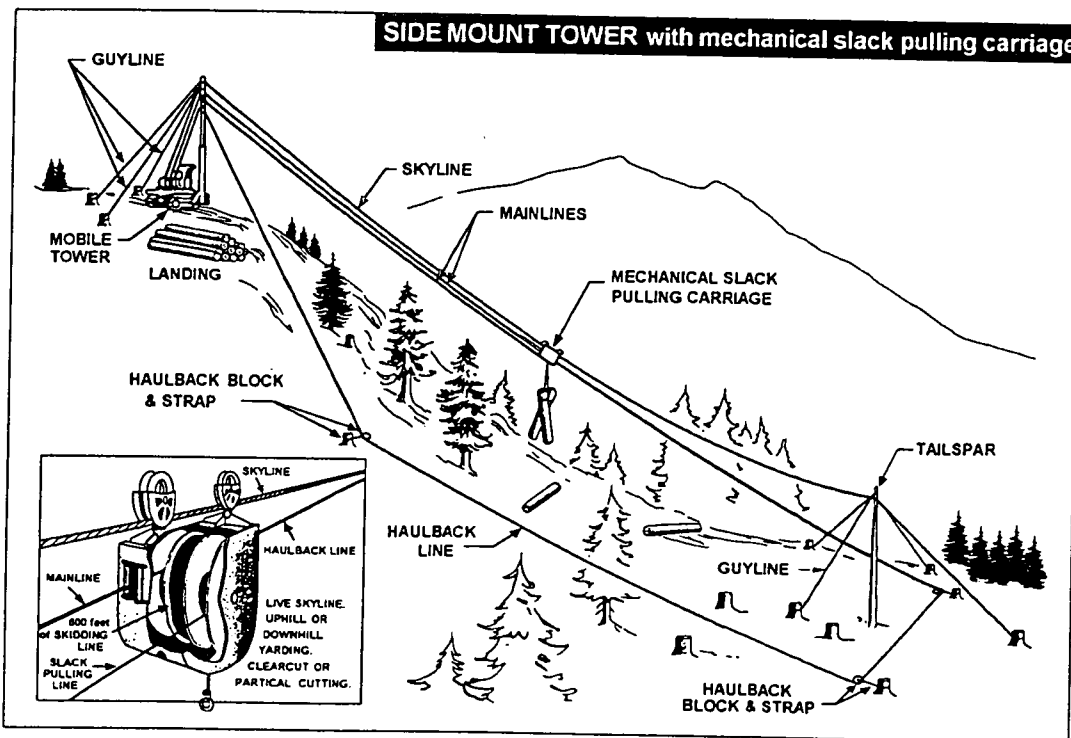


Figure 52: Side Mount Tower with Mechanical Slack Pulling Carriage

PERMANENT

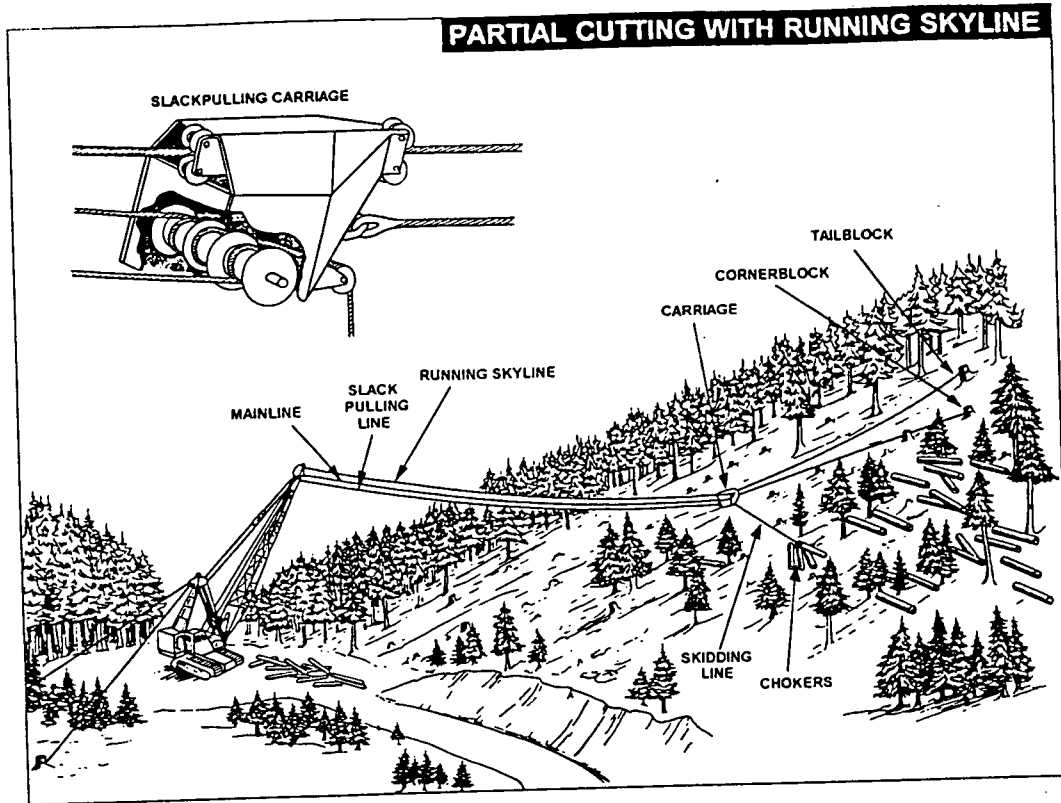


Figure 53: Partial Cutting with Running Skyline

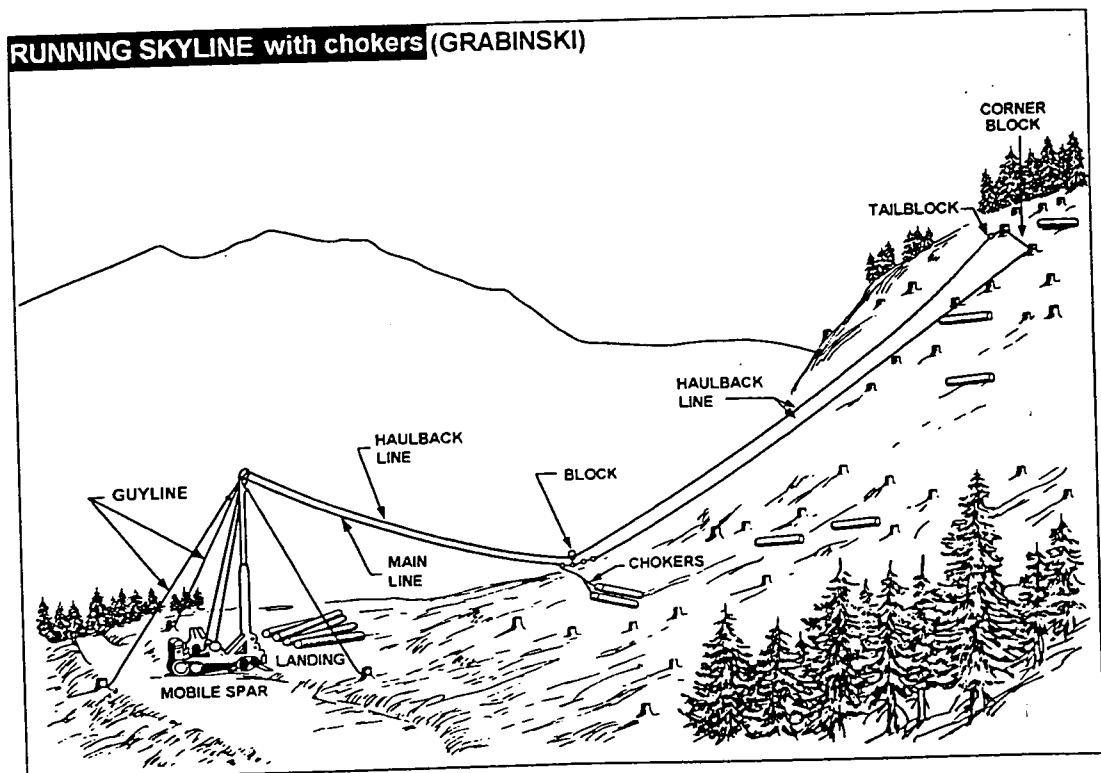


Figure 54: Running Skyline with Chokers (Grabinski)

PERMANENT

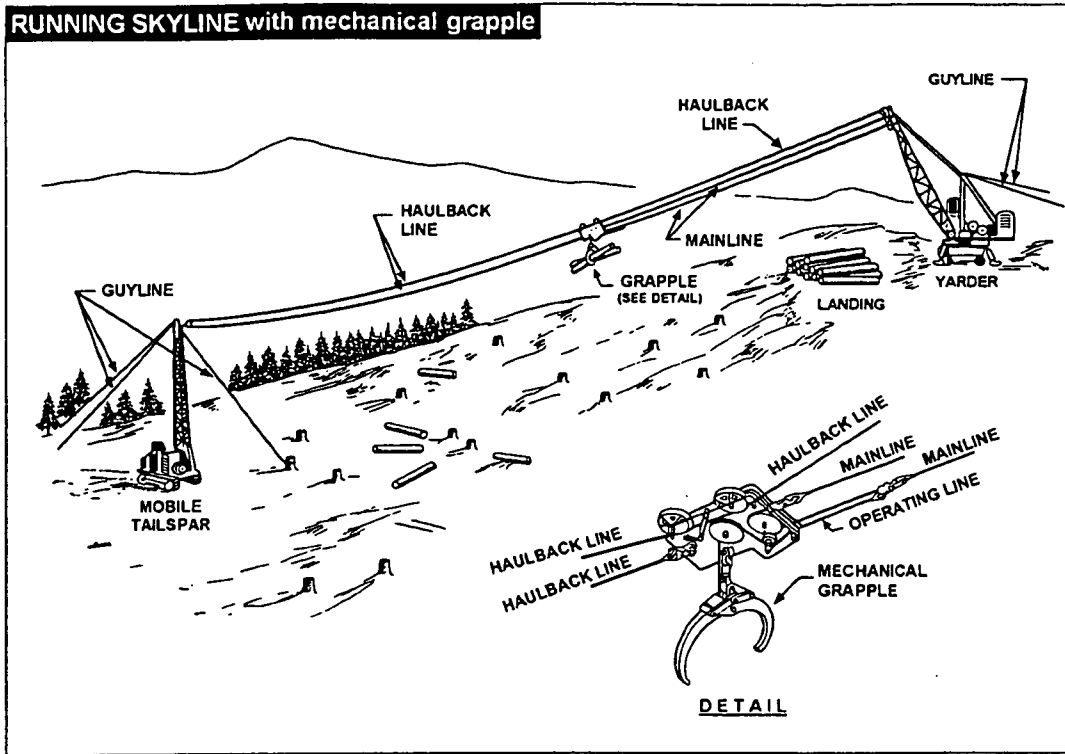


Figure 55: Running Skyline with Mechanical Grapple

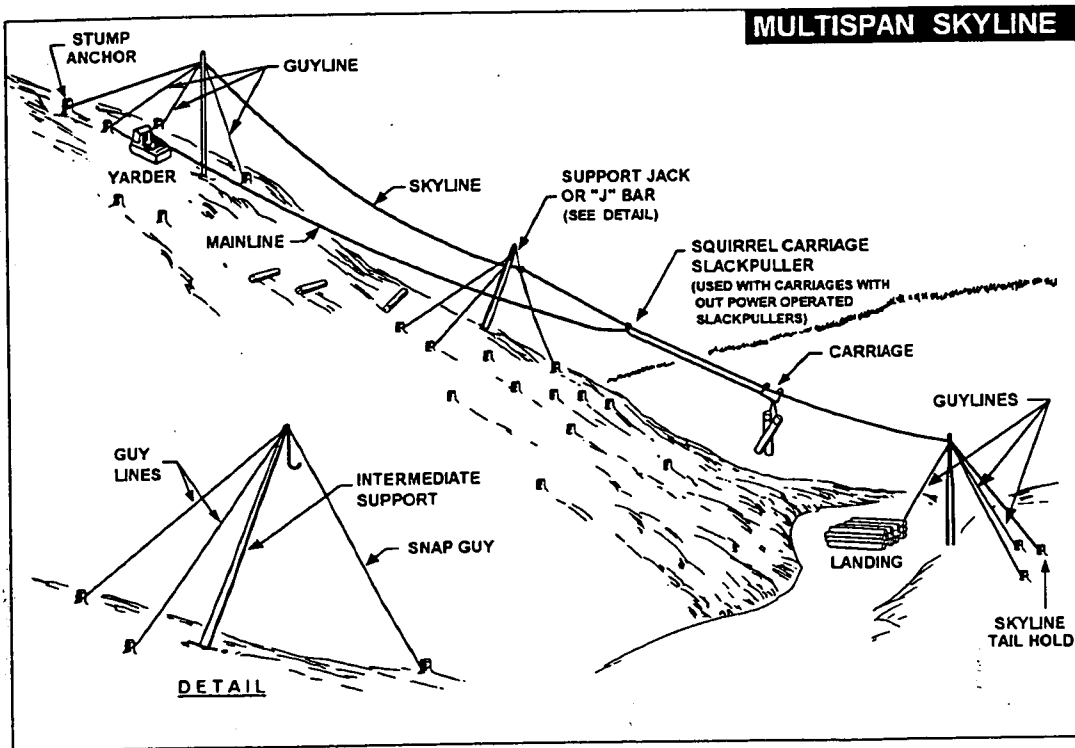


Figure 56: Multi-span Skyline

PERMANENT

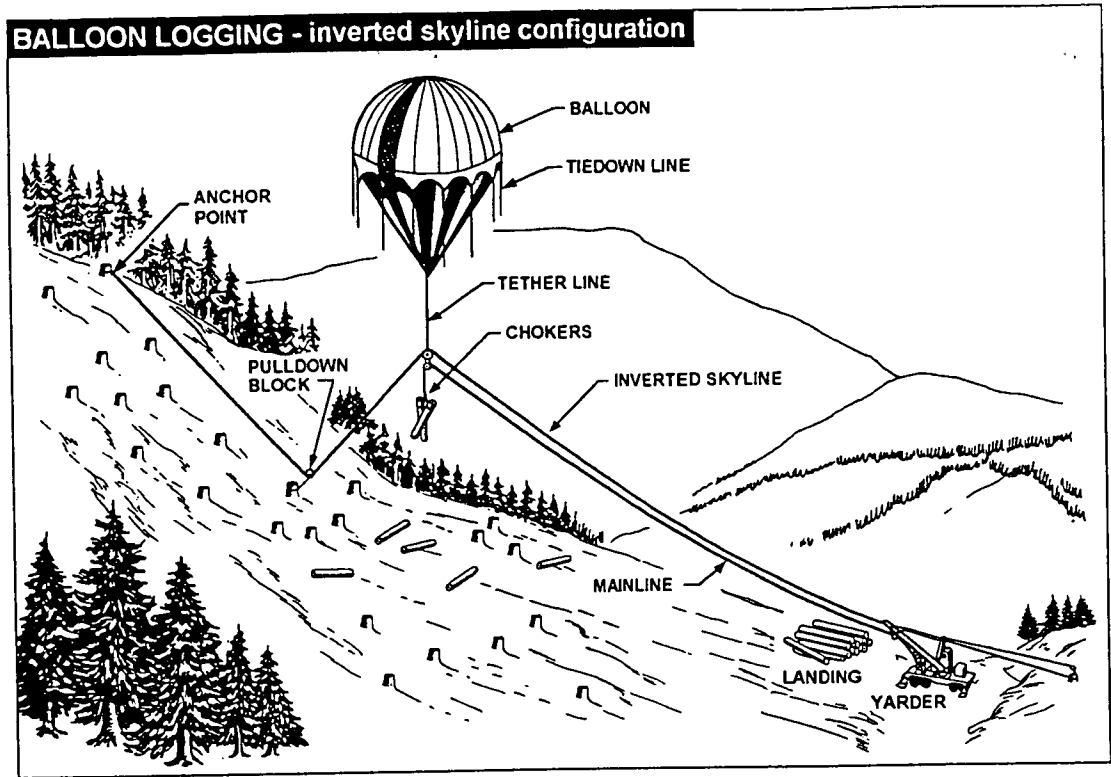


Figure 57: Balloon Logging – Inverted Skyline Configuration

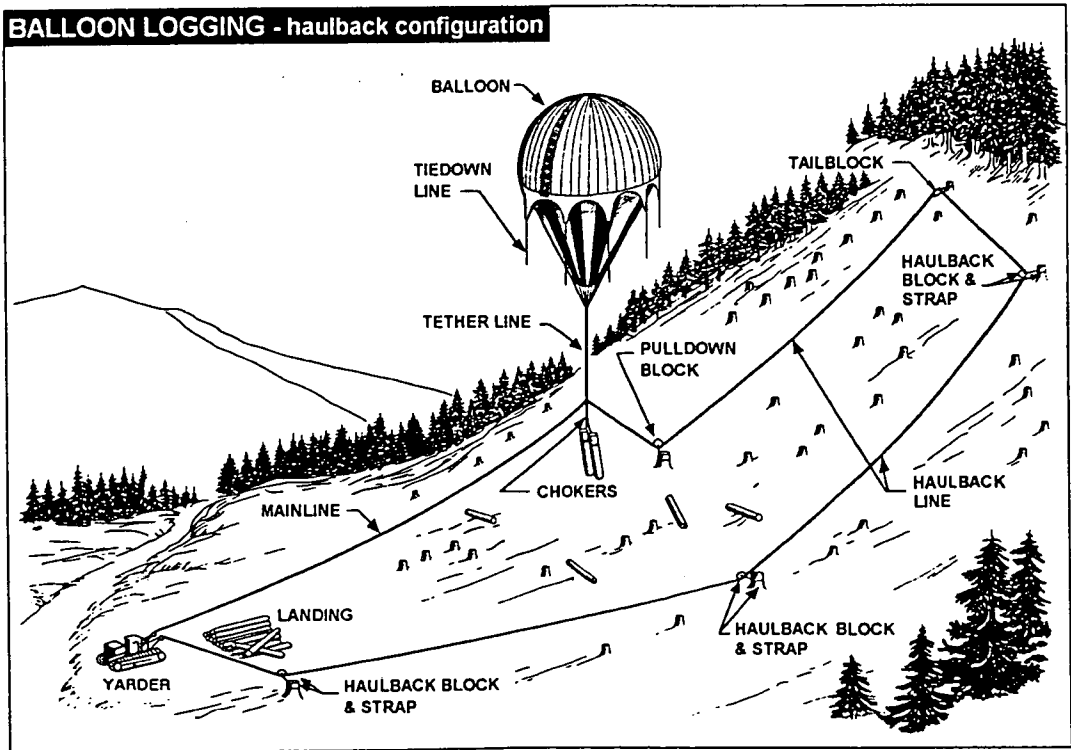


Figure 58: Balloon Logging – Haulback Configuration

PERMANENT

**NEW SECTION**

**WAC 296-54-99014 Appendix 5—Wooden tree yarding and loading systems.**

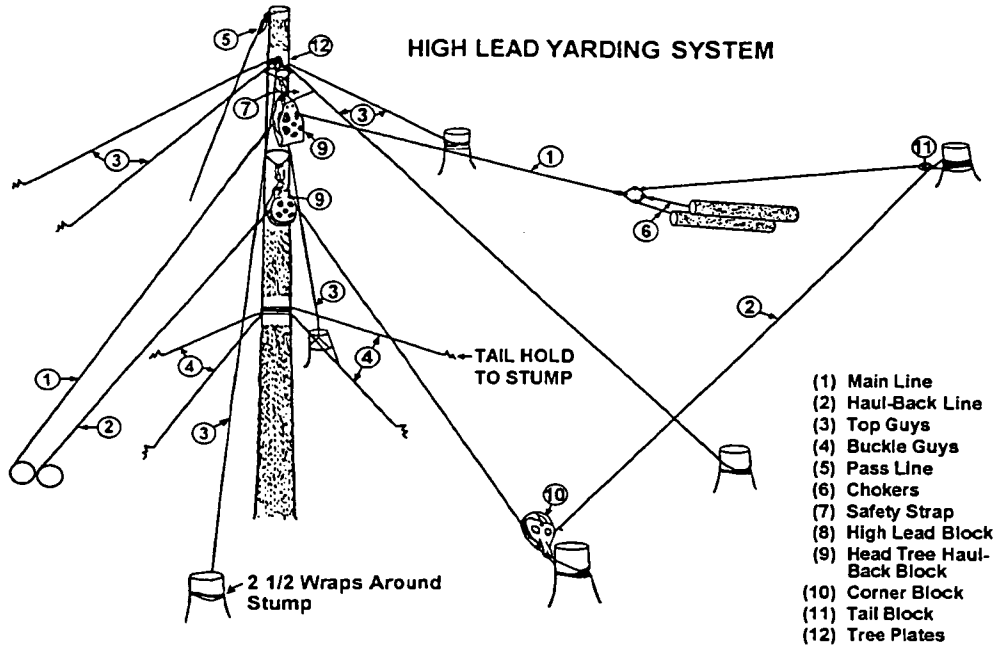


Figure 59: High Lead Yarding System

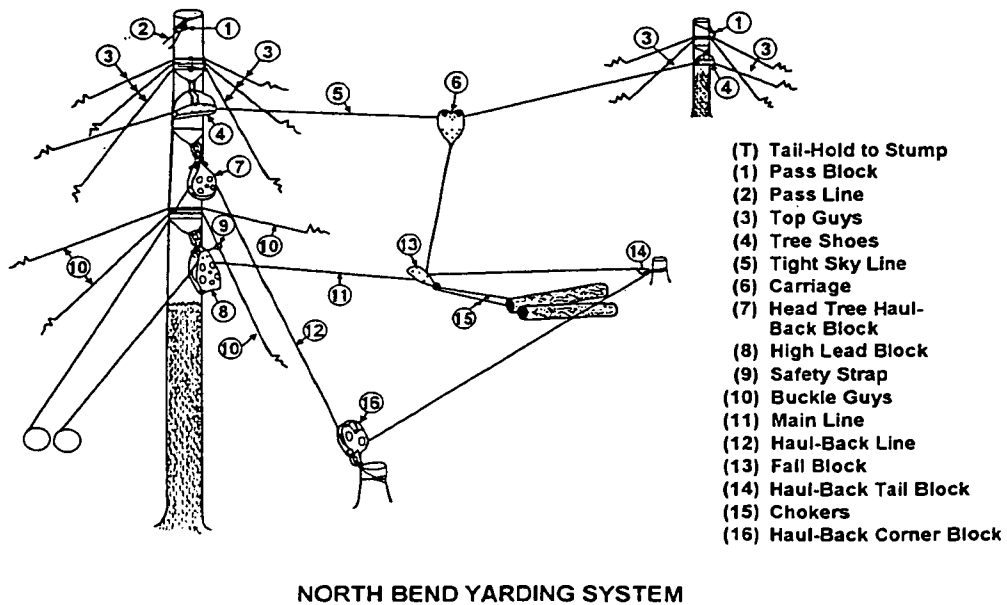


Figure 60: North Bend Yarding System

PERMANENT

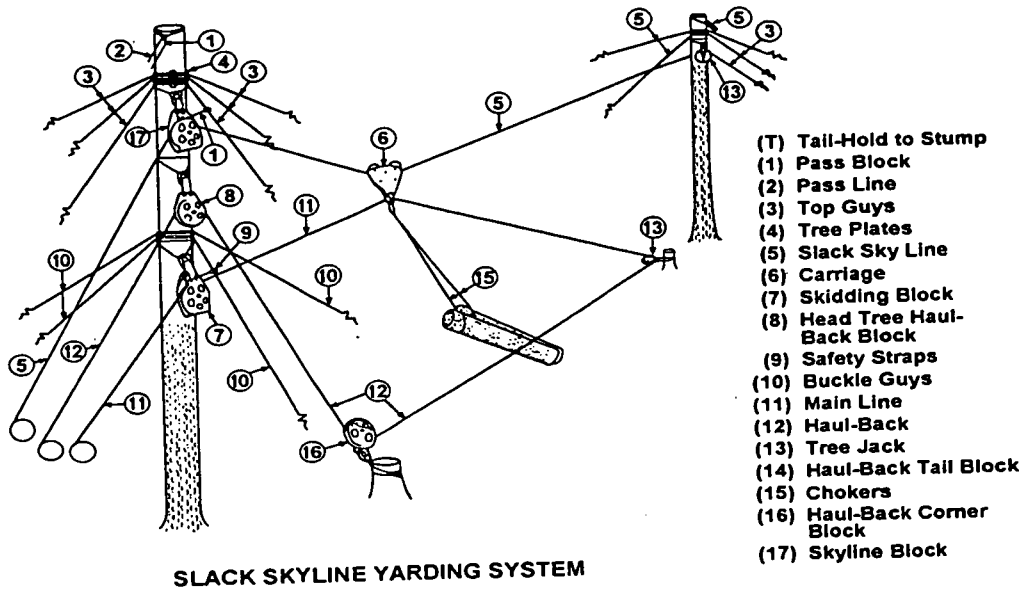


Figure 61: Slack Skyline Yarding System

**Heel Boom Loading**

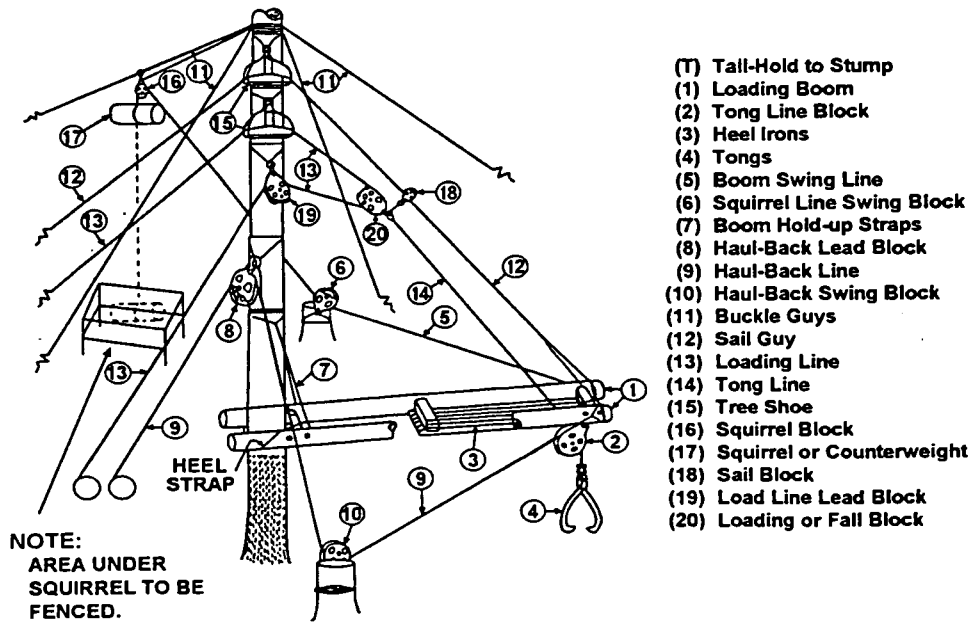


Figure 62: Heel Boom Loading

PERMANENT



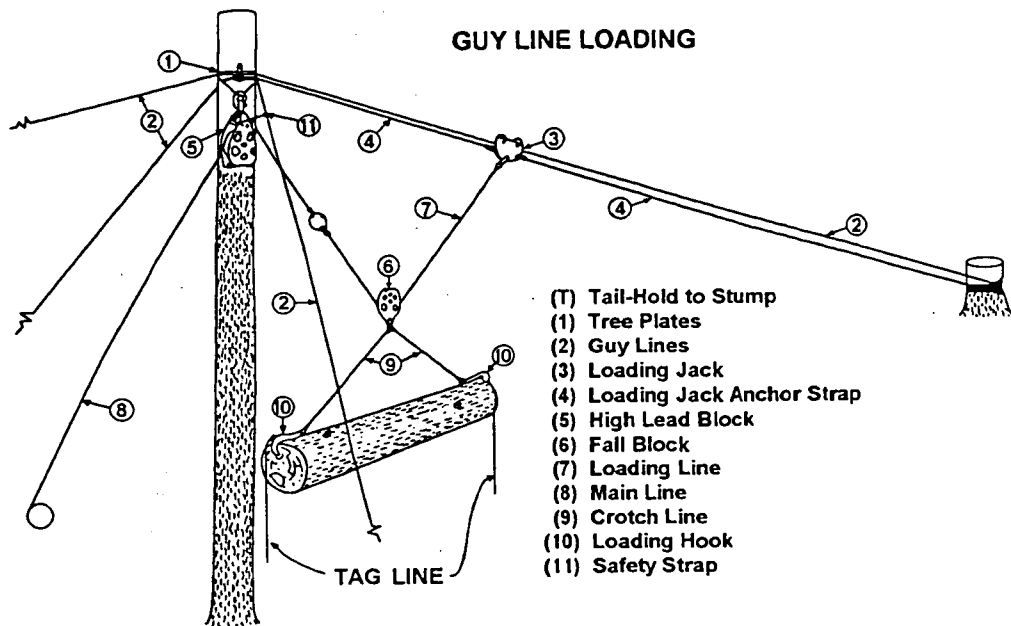


Figure 63: Guy Line Loading

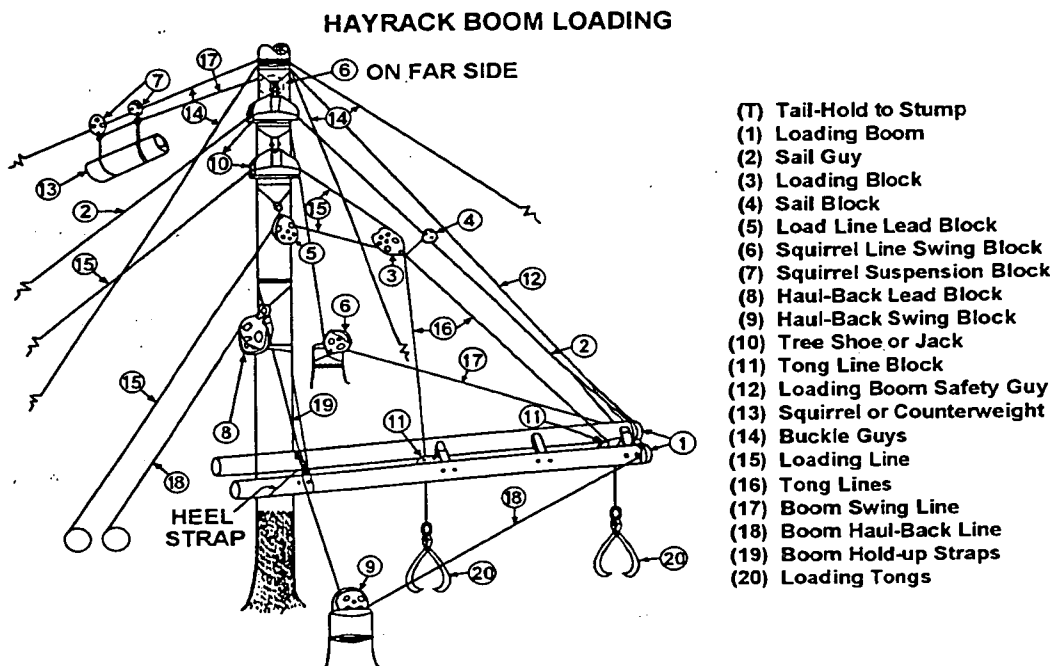
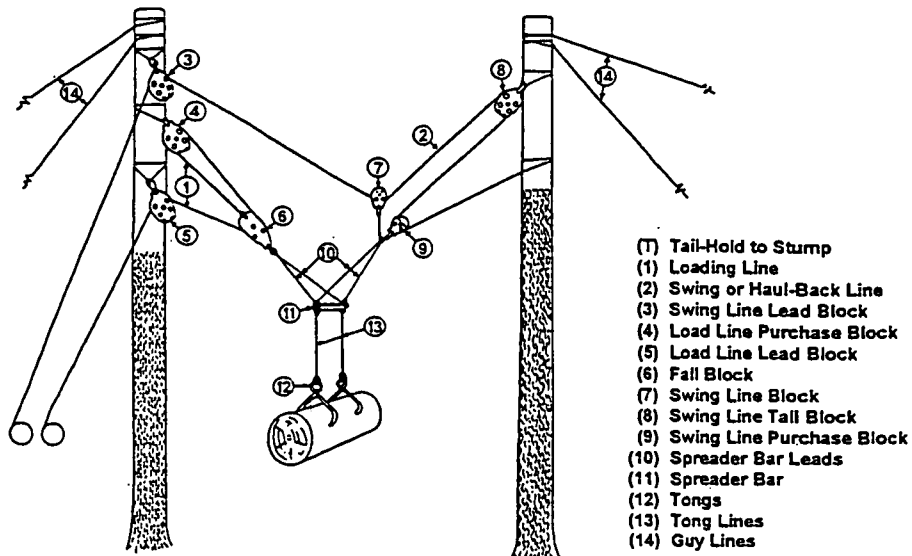


Figure 64: Hayrack Boom Loading

PERMANENT



**SPREADER BAR LOADING**

Figure 65: Spreader Bar Loading

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 296-54-525 Railroad construction and maintenance.
- WAC 296-54-599 Truck and equipment maintenance shops.

**NEW SECTION**

The following sections of the Washington Administrative Code as amended, are recodified as follows:

Old WAC Number	New WAC Number
296-54-531	296-54-521
296-54-521	296-54-523
296-54-529	296-54-527
296-54-527	296-54-529
296-54-533	296-54-531
296-54-535	296-54-533
296-54-523	296-54-535
296-54-559	296-54-54770

PERMANENT

**WSR 99-17-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-112—Filed August 4, 1999, 2:24 p.m., effective August 4, 1999, 3:00 p.m.]

Date of Adoption: August 4, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-88A-07000U; and amending WAC 220-88A-070.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that 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 state's share of spot shrimp in Shrimp Management Harvest Area 23B is projected to be taken by this date. These rules are necessary to implement the 1999 State/Tribal Puget Sound Shrimp Harvest Management Plan and meet all allocation requirements under Subproceeding 89-3 in *United States v. Washington*. These rules will allow for a sharing of catch between treaty and nontreaty shrimp fishers. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 4, 1999, 3:00 p.m.

August 4, 1999

Jeff P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 220-88A-07000V Puget Sound shrimp—Weekly trip limits and open areas—Closes 23B to spot shrimp** Notwithstanding the provisions of WAC 220-88A-070, effective 3:00 p.m. August 4, 1999 until further notice it is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) All waters of Crustacean Management Regions 1B, 1C, 2, 3, 4, and 6 are open to harvest of all shrimp immediately until further notice, with the following exceptions:

(a) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 26B and 26C, and all waters of Crustacean Management Regions 1B and 2 are closed to the harvest of spot shrimp.

(b) All waters of Marine Fish-Shellfish Management and Catch Reporting Area 23B are closed to the harvest of spot shrimp.

(2) It is unlawful to set or pull shellfish pot gear from one hour after official sunset until one hour before official sunrise.

(3) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 800 pounds per week or to exceed 300 pounds per week from Crustacean Management Regions 4 or 6. The spot shrimp trip limit accounting week is Monday through Sunday.

(4) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day.

(5) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Catch Reporting Area.

(6) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer or, if transferred at sea, without transfer to a licensed wholesale dealer.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 3:00 p.m. August 4, 1999:

WAC 220-88A-07000U Emerging commercial fishery—Puget Sound shrimp—Weekly trip limits and open areas (99-97)

**WSR 99-17-005**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-113—Filed August 5, 1999, 8:20 a.m.]

Date of Adoption: August 4, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100L; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in areas listed. Octopus Hole Conservation Area and Sund Rock Marine Preserve are closed to preserve the character of the Marine Preserves. Tatoosh Island closure is consistent with tribal agreements. Two divers are allowed when a vessel is designated on two licenses, consistent with SB 5658 passed by the 1999 legislature. Prohibition of all diving within two days of the scheduled sea cucumber opening discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 4, 1999

Jeff P. Koenings

Director

by Larry Peck

### NEW SECTION

**WAC 220-52-07100M Sea cucumbers** Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 2 (Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23C, 23D, 25A, 25B, 25C, 25D, 25E, and 29), and Marine Fish-Shellfish Management and Catch Reporting Areas 27A, 27B, and 27C, Monday, Tuesday, and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(2) Griffin Bay Special Management Area is defined as those waters of San Juan Channel and Upright Channel within the following lines: north of a line from Cattle Point on San Juan Island to Davis Point on Lopez Island, south of a line projected from Flat Point on Lopez Island to the northernmost point of Turn Island and thence projected true west to San Juan Island.

(3) The Griffin Bay Special Management Area is only open on August 9, 1999. The maximum daily landing from

the Griffin Bay Special Management Area for a vessel on August 9, 1999 is 1,000 pounds of sea cucumbers

(4) The following areas are closed to the harvest of sea cucumbers at all times:

(a) Tatoosh Island - Those waters within one-quarter mile of Tatoosh Island.

(b) Sund Rock Marine Preserve - Waters within 100 yards of the salmon net pens near Sund Rock in Hood Canal.

(c) Octopus Hole Conservation Area - Those waters and bedlands of Hood Canal within a line projected due east from the western shore of Hood Canal on latitude 47°27'01"N for 200 yards, thence southerly 628 yards parallel to the high water mark to latitude 46°26'66", thence due west to shore, but excluding those tidelands, bedlands and waters within 100 feet of the high water mark.

(5) It is unlawful to dive for any purpose from a commercially-licensed fishing vessel, except vessels actively fishing geoducks under contract with the Washington Department of Natural Resources, on August 7, 8, 14, 15, 21, 22, 28 and 29, 1999.

(6) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea cucumber harvest operation or when commercial quantities of sea cucumbers are aboard, except that two divers may be in the water if the vessel has been designated on two sea cucumber dive fishery licenses.

(7) All shellfish diver gear rules in WAC 220-52-071 remain in effect.

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

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100L Sea cucumbers. (99-98)

### **WSR 99-17-006**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 99-114—Filed August 5, 1999, 8:23 a.m.; effective August 7, 1999, 8:00 a.m.]

Date of Adoption: August 4, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-33000U.

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: Crab testfishing results indicate there is a harvestable surplus of hard shell crab in Catch Record Card Area 7 to be open for crab pot fishing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 7, 1999, 8:00 a.m.

August 4, 1999

Jeff P. Koenings

Director

by Larry Peck

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 8:00 a.m. August 7, 1999:

WAC 220-56-33000U Personal use crab pot fishery—Exceptions to permanent rules delayed opening for Whatcom County outside Bellingham Bay. (99-100)

**WSR 99-17-008  
EMERGENCY RULES  
SECRETARY OF STATE  
[Filed August 5, 1999, 11:42 a.m.]**

Date of Adoption: August 5, 1999.

Purpose: To amend existing rule, due to new legislation.

Citation of Existing Rules Affected by this Order: Amending WAC 434-324-010.

Statutory Authority for Adoption: RCW 29.04.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The immediate amendment of WAC 434-324-010 is necessary to allow thirty-nine counties sufficient time to make program changes, in order to become Y2K compliant.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 5, 1999

Donald F. Whiting

Assistant Secretary of State

**AMENDATORY SECTION** (Amending WSR 97-21-045, filed 10/13/97)

**WAC 434-324-010 Contents and format of computer file of registered voters.** (1) Records containing the following information shall be maintained on each registered voter in the computer file: County code, name, address, registration number, sex, date of birth, date of registration, applicable district and precinct codes, ((and up to five)) at least one dates upon which the individual has voted since establishing that registration record, and digitized signature. The county may assign numeric or alphabetic codes for city names in order to facilitate economical storage of the voter's address.

(2) Pursuant to RCW 29.10 a standard electronic file format (state transfer format) to be used for the electronic transfer of voter registration information between county auditors and the office of the secretary of state is created. Each county shall program its voter registration system to convert the voter registration data as prescribed by WAC 434-324-010 (1) from the county's storage format into the state transfer format, which shall be available on commonly accepted portable storage media. The specific format is detailed in WAC 434-324-010 (3).

(3) Record format for transferring voter data between county auditors and secretary of state shall be as follows:

<u>County Code</u>	<u>2 Alpha</u>	<u>County numeric code</u>
<u>Year Registration</u>	<u>4 Alpha</u>	
<u>Registration ID</u>	<u>10 Alpha</u>	
<u>Last Name</u>	<u>30 Alpha</u>	
<u>First Name</u>	<u>15 Alpha</u>	
<u>Middle Name</u>	<u>15 Alpha</u>	
<u>Sex</u>	<u>1 Alpha</u>	
<u>Date of Birth</u>	<u>8 Numeric</u>	<u>MDDYYYY</u>
<u>Date of Registration</u>	<u>8 Numeric</u>	<u>MMDDYYYY</u>
<u>Residence Address</u>	<u>39 Alpha</u>	<u>includes apt.</u>
<u>Residence City</u>	<u>15 Alpha</u>	

EMERGENCY

Residence Zip Code     9 Alpha  
Mailing Address        39 Alpha        includes apt.  
Mailing City            15 Alpha  
Mailing State           2 Alpha  
Mailing Zip Code        9 Alpha  
Precinct Code           6 Alpha  
Levy Code               6 Alpha  
Congressional District  2 Alpha  
Legislative District    2 Alpha  
Date Last Voted         8 Alpha         MMDDYYYY

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

**WSR 99-17-012**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 (Division of Child Support)  
 [Filed August 6, 1999, 10:45 a.m.]

Date of Adoption: August 6, 1999.

Purpose: Amending WAC 388-14-420 to bring it into accord with changes to 45 C.F.R. 303.11, dealing with closure of child support enforcement cases. This is the second emergency filing with the same text; Division of Child Support (DCS) is also pursuing the regular rule-making process and has filed the notice of proposed rule making.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14-420.

Statutory Authority for Adoption: RCW 74.20A.310, 34.05.220, 45 C.F.R. 303.11.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The federal rules regarding case closure were amended effective April 9, 1999; the Division of Child Support is required to have rules in accordance with federal rules or else risk putting the state out of compliance with the requirements of Title IV-D of the Social Security Act, which could jeopardize federal funding.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 6, 1999

Marie Myerchin-Redifer, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 97-13-092, filed 6/18/97, effective 7/19/97)

**WAC 388-14-420 Termination of support enforcement services.** (1) After the ~~((IV-D agency))~~ division of child support (DCS) begins providing services under chapter 74.20 RCW and RCW 26.23.045 (1)~~((a), (b), (c), (e), or (f), the IV-D agency))~~ , DCS may terminate services when:

(a) There is no current support order and the support debt is less than five hundred dollars or cannot be enforced under the laws of the state of Washington;

(b) ~~((The IV-D agency))~~ DCS determines that the ~~((responsible))~~ noncustodial parent or putative father is dead and has no available assets, income, or estate subject to collection action;

(c) ~~((The IV-D agency))~~ DCS determines that the ~~((responsible))~~ noncustodial parent does not have any available assets, income, or estate subject to collection action, and is and will be unable to pay support because the parent is:

(i) Institutionalized in a psychiatric facility;

(ii) Incarcerated without possibility of parole; or

(iii) Medically verified as totally and permanently disabled with no evidence of support potential.

(d) The applicant, agency, or person receiving nonassistance services submits a written request to terminate services, and no current assignment to the state of medical support rights exists. If there is accrued debt under a support order that is assigned to the state:

(i) That portion of the case shall remain open; and

(ii) ~~((The IV-D agency))~~ DCS may close the nonassistance portion of the case.

(e) ~~((The IV-D agency))~~ DCS has enough information to use an automated locate system, makes ((reasonable)) diligent efforts to identify or locate the ((responsible)) noncustodial parent, using local, state, and federal locate sources over a three-year period and does not find new locate information;

(f) ~~((The IV-D agency))~~ DCS does not have enough information to use an automated locate system, makes diligent efforts to locate the noncustodial parent over a one-year period and does not find any new locate information;

(g) DCS is unable to contact ((a)) an applicant, agency, or person receiving nonassistance ((physical custodian)) services within a ((thirty)) sixty-day period ((using both a telephone call and one or more registered letters));

~~((g))~~ The IV-D agency

(h) DCS documents;

(i) Instances of the physical custodian's or the initiating state's failure or refusal to cooperate with ~~((the IV-D agency))~~ DCS; and

(ii) That the physical custodian's cooperation is essential for the next step in providing support enforcement services;

~~((h) The IV-D agency))~~

(i) DCS cannot obtain a paternity order because:

(i) The putative father is dead;

(ii) A genetic test has excluded all known putative fathers and no other putative father can be identified after diligent efforts, including at least one interview by DCS with the recipient of support enforcement services;

(iii) The child is eighteen years of age or older; ~~((e))~~

(iv) The department, a court of competent jurisdiction, or an adjudicative proceeding determines that paternity establishment would not be in the best interest of the child in a case involving:

(A) Incest;

(B) Rape; or

(C) Pending adoption~~((-~~

~~(+))~~; or

(v) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by DCS with the recipient of support enforcement services.

(j) The department or a court of competent jurisdiction finds the person receiving services has wrongfully deprived the ~~((responsible))~~ noncustodial parent of physical custody of a dependent child under WAC 388-11-065(3);

~~((j))~~ (k) The department or a court of competent jurisdiction finds that action establishing or enforcing a support obligation cannot proceed without risk of harm to the child or the child's custodian;

~~((k) The IV-D agency))~~

(l) DCS has provided locate-only services in response to a request for state parent locator services;

~~((h))~~ (m) The ~~((responsible))~~ noncustodial parent is a citizen of, and lives in, a foreign country and:

(i) Does not have any assets which can be reached by ~~((the IV-D agency))~~ DCS; and

(ii) Washington state has been unable to establish reciprocity in child support matters with that country; or

~~((m))~~ (n) The dependent child is confined to a juvenile rehabilitation facility for a period of ninety days or more; or

~~((n))~~ (o) Any other circumstances exist which would allow closure under 45 CFR 303.11 or any other federal statute or regulation.

(2) After ~~((the IV-D agency))~~ DCS provides services under RCW 26.23.045 (1)~~((d), the IV-D agency))~~, DCS shall:

(a) Terminate support enforcement services;

(i) If a court of competent jurisdiction orders ~~((the IV-D agency))~~ DCS to terminate services based on:

(A) An approved alternate payment plan under RCW 26.23.050; or

(B) A finding that it is not in the child's best interest for ~~((the IV-D agency))~~ DCS to continue providing services.

(ii) After filing a satisfaction of judgment with the court as provided under WAC 388-14-205; or

(iii) If the ~~((responsible))~~ noncustodial parent is dead and ~~((the IV-D agency receives proof))~~ DCS determines there is no available estate.

(b) Terminate services, except records maintenance and payment processing:

(i) For the reasons stated under subsections (1)(c), (d), (e), (f), (g), (j), (k), (l), ~~((e))~~ (m), or (n) of this section; or

(ii) If the payee under the order fails to submit an application for support enforcement services.

(3) Sixty days before terminating services, ~~((the IV-D agency))~~ DCS shall mail a notice to the physical custodian and the noncustodial parent. ~~((The IV-D agency))~~ DCS shall:

(a) Send the notice by regular mail to the last known address of the physical custodian and the noncustodial parent. In an interstate case, DCS shall send the notice to the physical custodian by regular mail in care of the other state's child support agency;

(b) Include in the notice the reasons for terminating services; and

(c) State in the notice that the physical custodian or the noncustodial parent may ask for a hearing to contest the decision terminating services and may participate in any hearing requested by this other party.

(4) After terminating support enforcement services, ~~((the IV-D agency))~~ DCS shall return support money ~~((the IV-D agency))~~ DCS receives to the payor except as provided under subsection (2)(b) of this section.

## WSR 99-17-014

### EMERGENCY RULES

### DEPARTMENT OF

### FISH AND WILDLIFE

[Order 99-115—Filed August 6, 1999, 2:59 p.m.]

Date of Adoption: August 6, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-24-02000J.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is necessary to allow chinook salmon to leave the area so that the coho to chinook ratio will improve.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 6, 1999  
Evan Jacoby  
for Jeff P. Koenings  
Director

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 9, 1999, 12:00 noon.

August 6, 1999  
Evan Jacoby  
for Jeff P. Koenings  
Director

### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-24-02000J Commercial salmon troll.  
(99-109)

**WSR 99-17-015**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-116—Filed August 6, 1999, 3:01 p.m., effective August 9, 1999, 12:00 noon.]

Date of Adoption: August 6, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88A-07000V; and amending WAC 220-88A-070.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state's share of spot shrimp in Shrimp Management Harvest Area 23A east is projected to be taken by this date. These rules are necessary to implement the 1999 State/Tribal Puget Sound Shrimp Harvest Management Plan and meet all allocation requirements under Subproceeding 89-3 in *United State v. Washington*. These rules will allow for a sharing of catch between treaty and nontreaty shrimp fishers. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

### NEW SECTION

**WAC 220-88A-07000W Puget Sound shrimp—Weekly trip limits and open areas—Closes 23A east to spot shrimp** Notwithstanding the provisions of WAC 220-88A-070, effective 12:00 noon August 9, 1999 until further notice it is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) All waters of Crustacean Management Regions 1B, 1C, 2, 3, 4, and 6 are open to harvest of all shrimp immediately until further notice, with the following exceptions:

(a) Waters of Marine Fish-Shellfish Management and Catch Reporting Area 23A east of a line projected 335 degrees true from the Dungeness lighthouse, all waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23B, 26B and 26C, and all waters of Crustacean Management Regions 1B and 2 are closed to the harvest of spot shrimp.

(2) It is unlawful to set or pull shellfish pot gear from one hour after official sunset until one hour before official sunrise.

(3) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 800 pounds per week or to exceed 300 pounds per week from Crustacean Management Regions 4 or 6. The spot shrimp trip limit accounting week is Monday through Sunday.

(4) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day.

(5) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Catch Reporting Area.

(6) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer or, if transferred at sea, without transfer to a licensed wholesale dealer.



REPEALER

The following section of the Washington Administrative Code is repealed effective 12:00 noon August 9, 1999:

WAC 220-88A-07000V Emerging commercial fishery-Puget Sound shrimp pot (99-112)

**WSR 99-17-040  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 99-117—Filed August 12, 1999, 2:09 p.m.]

Date of Adoption: August 9, 1999.

Purpose: Fishing rules.

Citation of Existing Rules Affected by this Order:  
Amending WAC 220-16-480.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The current description of Sund Rock relies upon a net pen, which has been removed. This description relies upon readily identifiable geographic features. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 9, 1999  
Jeff P. Koenings  
Director  
by Larry Peck

NEW SECTION

**WAC 220-16-48000A Sund Rock Marine Preserve Area.** Notwithstanding the provisions of WAC 220-16-480, effective immediately until further notice the Sund Rock

Marine Preserve Area shall include all waters, tidelands and bedlands on the west shore of Hood Canal bounded by a line originating at the mouth of Sund Creek (46°26'45"N, 123°07'30"W), due east 350 feet, then due south 2,200 feet, then due west to shore and following the meander line to the point of origin, including all of the underwater feature known as Sund Rock.

**WSR 99-17-045  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 99-119—Filed August 13, 1999, 9:32 a.m.]

Date of Adoption: August 12, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-24-02000K; and amending WAC 220-24-020.

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: A harvestable quota of chinook and coho salmon are available for commercial troll fishermen. This regulation is adopted at the recommendation of the Pacific Fisheries Management Council and is consistent with federal law. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 12, 1999  
Jeff P. Koenings  
Director  
by Larry Peck

NEW SECTION

**WAC 220-24-02000K Commercial salmon troll.** Notwithstanding the provisions of WAC 220-24-010, 220-24-

020 and WAC 220-24-030, effective immediately until further notice it is unlawful to fish for or possess salmon taken for commercial purposes with troll gear from those waters west of the Bonilla-Tatoosh line, the Pacific Ocean and waters west of the Buoy 10 Line at the mouth of the Columbia River from the U.S. - Canada border to Cape Falcon, Oregon except as provided for in this section:

(1) Effective immediately through 11:59 p.m. September 30, 1999, it is lawful to fish for and possess salmon in those waters of Washington Catch Reporting Areas 2 and 3.

(2) Open Saturdays through Tuesdays and closed Wednesdays through Fridays.

(3) Gear is restricted to all legal troll gear with single point, single shank barbless hooks only. For purposes of this section, "legal troll gear" has the same meaning as "troll fishing gear" in the Federal Register [64 FR 24078, May 5, 1999]

(4) Each participating vessel must land and deliver to a port within the area or an adjacent closed area within 24 hours of any closure.

(5) No chinook salmon smaller than 28 inches in total length or coho salmon smaller than 16 inches in length may be taken or retained in the fishery provided for herein, except that frozen salmon taken in this fishery may be landed pursuant to WAC 220-20-015.

(6) It is unlawful to fish for or possess salmon taken for commercial purposes with gear other than troll gear.

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

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

## REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. September 30, 1999:

WAC 220-24-02000K Commercial salmon troll.

**WSR 99-17-046**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-121—Filed August 13, 1999, 9:36 a.m.]

Date of Adoption: August 12, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000B and 220-56-38000U; and amending WAC 220-56-350 and 220-56-380.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is necessary to ensure conservation and/or court ordered sharing of the allowable harvest. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 12, 1999

Jeff P. Koenigs

Director

by Larry Peck

## NEW SECTION

**WAC 220-56-35000C Clams other than razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to harvest or possess clams, cockles, or mussels taken for personal use from the following public tidelands during the closed periods herein, and lawful to harvest only during the open periods specified herein:

(1) Dosewallips State Park - **Open** August 16 through September 15.

(2) South Indian Island County Park - **Closed** until further notice.

## NEW SECTION

**WAC 220-56-38000V Oysters—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-380, effective immediately until further notice, it is unlawful to harvest or possess oysters taken for personal use from the following public tidelands except as provided below:

(1) Dosewallips State Park - **Open** August 16 through September 15.

(2) DNR 46 (east side of Hood Canal) - **Closed** until further notice.

(3) Kitsap Memorial State Park - **Closed** effective 11:59 p.m. August 15 until further notice.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 220-56-35000B Clams other than razor clams—Areas and seasons. (99-99)
- WAC 220-56-38000U Oysters (99-99)

**WSR 99-17-047**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-122—Filed August 13, 1999, 9:38 a.m.]

Date of Adoption: August 12, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100M; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers have been taken in all marine fish-shellfish management and catch reporting areas. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 12, 1999  
 Jeff P. Koenings  
 Director  
 by Larry Peck

**NEW SECTION**

**WAC 220-52-07100N Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective immedi-

ately until further notice it is unlawful to take or possess sea cucumbers taken for commercial purposes.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

- WAC 220-52-07100N Sea cucumbers. (99-13)

**WSR 99-17-064**  
**EMERGENCY RULES**  
**STATE TOXICOLOGIST**

[Filed August 13, 1999, 1:23 p.m.]

Date of Adoption: August 12, 1999.

Purpose: To extend a previous emergency provision (WSR 99-10-018) that was put in place to assist with the interpretation of breath alcohol test results. This provision would otherwise have expired August 24, 1999. The change makes clear that in order for tests conducted on or after April 1, 1999, to be admissible on or after April 27, 1999, the external standard test results must be between 0.072 and 0.088. For tests conducted prior to April 1, 1999, the rules in effect at that time would apply.

Citation of Existing Rules Affected by this Order: Amending WAC 448-13-060.

Statutory Authority for Adoption: RCW 46.61.506.

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 measure is necessary to ensure that breath alcohol tests should be admissible if the appropriate scientific criteria are applied. A drafting error in the original adoption (WSR 99-06-048) caused confusion about the appropriate criteria for an acceptable test. Preventing a trier of fact from considering this evidence could lead to wrongful disposition of a criminal case, which would be contrary to the public interest. An objection to expedited adoption of the permanent rule (WSR 99-10-019) has delayed its permanent adoption and necessitated this extension.

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 Mak-

ing: New 0, Amended 1, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 11, 1999

Barry K. Logan Ph.D.  
State Toxicologist

**AMENDATORY SECTION** (Amending WSR 95-20-025, filed 9/27/95, effective 10/28/95)

**WAC 448-13-060 Validity and certification of test results.** A test shall be a valid test and so certified, if the requirements of WAC 448-13-040, 448-13-050 and 448-13-055 are met, and in addition the following criteria for precision and accuracy, as determined solely from the breath test document, are met:

(1) The internal standard test results in the message "verified."

(2) In order to be valid, the two breath samples must agree to within plus or minus ten percent of their mean. This shall be determined as follows:

(a) The breath test results shall be reported, truncated to three decimal places.

(b) The mean of the two breath test results shall be calculated and rounded to four decimal places.

(c) The lower acceptable limit shall be determined by multiplying the above mean by 0.9, and truncating to three decimal places.

(d) The upper acceptable limit shall be determined by multiplying the mean by 1.1 and truncating to three decimal places.

(e) If the results fall within and inclusive of the upper and lower acceptable limits, the two breath samples are valid.

(3) The simulator external standard result must lie between .090 to .110 inclusive for tests conducted prior to April 1, 1999, and .072 to .088 inclusive for tests conducted on or after April 1, 1999. This provision is remedial in nature and applies to any judicial proceeding conducted after April 27, 1999.

(4) All four blank tests must give results of .000.

If these criteria are met, then these and no other factors are necessary to indicate the proper working order of the instrument, and so certify it, at the time of the breath test.

**WSR 99-17-069  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 99-124—Filed August 13, 1999, 2:38 p.m.]

Date of Adoption: August 13, 1999.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-56-199; and amending WAC 220-56-190.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The department has reached agreement with the Quinault Tribe to allow a fishery directed at returning net pen coho. WAC 220-56-199 was adopted in 1998 to effect management plans needed to meet conservation needs of salmon stocks in Area 7 for that year. A different combination of stock concerns exists this year, and the appropriate Area 7 closure zone, agreed to during the 1999 North of Falcon process, has already been enacted by adoption of WAC 220-56-19500E. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

August 13, 1999

Evan Jacoby

for Jeff P. Koenings

Director

**NEW SECTION**

**WAC 220-56-19000Z Coastal salmon—Saltwater seasons and daily limits.** Notwithstanding the provisions of WAC 220-56-116, WAC 220-56-126, and WAC 220-56-190, in those waters of Catch Record Card Area 2-2 inside the Ocean Shores Boat Basin: Special daily limit of 6 salmon, not more than four of which may be adult salmon - August 16 until further notice. Chinook and coho salmon 12-inch minimum size but there is no minimum size for other salmon. Nonbuoyant lure and night closure restriction in effect during this fishery. Barbed hooks may be used in this fishery.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 11:59 p.m. August 15, 1999:

WAC 220-56-199

Closed areas—Chinook salmon angling.

**WSR 99-17-082**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-130—Filed August 16, 1999, 4:56 p.m.]

Date of Adoption: August 16, 1999.

Purpose: To adopt WAC 232-28-28100A 1999-2000 Elk special season.

Citation of Existing Rules Affected by this Order: Repealing [WAC 232-28-28100A].

Statutory Authority for Adoption: RCW 77.12.040.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule is needed to reduce hunter confusion regarding lawful tag requirements. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

Jeff P. Koenings  
 Director

by Larry W. Peck

**NEW SECTION**

**WAC 232-28-28100A 1999-2000 Elk special season**

Notwithstanding the provisions of WAC 232-28-281, effective immediately through September 12, 1999 it is lawful to hunt in the early muzzleloader elk season in muzzleloader area 911 using a valid Yakima muzzleloader elk tag.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. September 13, 1999:

WAC 232-28-28100A 1999-2000 Elk special season

**WSR 99-17-099**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 99-120—Filed August 17, 1999, 1:22 p.m., effective August 17, 1999, 2:00 p.m.]

Date of Adoption: August 17, 1999.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-88A-07000W; and amending WAC 220-88A-070.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state's share of spot shrimp in Shrimp Management Harvest Area 25A is projected to be taken by this date. There is a harvestable surplus of spot shrimp remaining in Crustacean Management Region 1B. A weekly trip limit for the Strait of Juan de Fuca is no longer necessary to reduce overharvest risk. These rules are necessary to implement the 1999 State/Tribal Puget Sound Shrimp Harvest Management Plan and meet all allocation requirements under Subproceeding 89-3 in *United States v. Washington*. These rules will allow for a sharing of catch between treaty and nontreaty shrimp fishers. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: August 17, 1999, 2:00 p.m.

August 17, 1999

Jeff P. Koenings

Director

by Larry Peck

**NEW SECTION**

**WAC 220-88A-07000X Puget Sound shrimp pot fishery—Closes 25A and opens 1B for spot shrimp, removes trip limit for Region 3** Notwithstanding the provisions of WAC 220-88A-070, effective 2:00 p.m. August 17, 1999 until further notice it is unlawful to fish for shrimp for com-

EMERGENCY

mercial purposes in Puget Sound using shellfish pot gear except as provided for in this section:

(1) All waters of Crustacean Management Regions 1B, 1C, 2, 3, 4, and 6 are open to harvest of all shrimp immediately until further notice, with the following exceptions:

(a) All waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23B, 25A, 26B and 26C, and all waters of Crustacean Management Region 2 are closed to the harvest of spot shrimp.

(b) All waters of Marine Fish-Shellfish Management and Catch Reporting Area 23A east of a line projected 335 degrees true from the Dungeness lighthouse are closed to the harvest of spot shrimp.

(c) All waters of Crustacean Management Region 1B are only open to the harvest of spot shrimp from 8:00 a.m. August 20 until 5:00 p.m. on August 22.

(2) It is unlawful to set or pull shellfish pot gear from one hour after official sunset until one hour before official sunrise.

(3) It is unlawful for the combined total harvest of spot shrimp by a fisher and/or the fisher's alternate operator to exceed 300 pounds per week from Crustacean Management Regions 4, 6, or 1C, or to exceed 150 pounds per week in Crustacean Management Region 1B. The spot shrimp trip limit accounting week is Monday through Sunday.

(4) It is unlawful to fish for shrimp for commercial purposes in Puget Sound using shellfish pot gear in more than one Marine Fish-Shellfish Management and Catch Reporting Area per day.

(5) It is unlawful to set or pull shellfish pots in one Marine Fish-Shellfish Catch Reporting Area while in possession of shrimp harvested from another Marine Fish-Shellfish Catch Reporting Area.

(6) All shrimp taken under this section must be sold to licensed Washington wholesale fish dealers. No fisher may land shrimp without immediate delivery to a licensed wholesale dealer or, if transferred at sea, without transfer to a licensed wholesale dealer.

REPEALER

The following section of the Washington Administrative Code is repealed effective 2:00 p.m. August 17, 1999.

WAC 220-88A-07000W Emerging commercial fishery—Puget Sound shrimp pot (99-116)

EMERGENCY

**WSR 99-17-007****NOTICE OF PUBLIC MEETINGS  
UNIVERSITY OF WASHINGTON**

[Memorandum—July 30, 1999]

This memo is to notify you that the August 20, 1999, meeting of the University of Washington board of regents has been canceled.

At the direction of Cindy Zehnder, president of the board of regents, at the meeting of the board on July 16, 1999, and with the concurrence of the members of the board and of Dr. Richard L. McCormick, president of the university, the meeting of the board of regents scheduled for August 20, 1999, is canceled.

The next regular meeting of the board will be held as scheduled on September 17, 1999.

**WSR 99-17-011****INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed August 6, 1999, 10:42 a.m.]

**DESCRIPTION OF INTERPRETIVE OF POLICY STATEMENT**

Document Title: Billing Instructions.  
Subject: Home health services.  
Effective Date: September 1999.

Document Description: This manual covers general information and policy regarding home health services, covered and noncovered services, skilled nursing for obstetrical clients, revenue codes and rates, instructions for completing the UB-92 claim form, sample UB-92 claim form, Medicare/Medicaid Benefits Coordination, instructions for completing the UB-92 claim form for crossover claims, sample claim UB-92 claim form.

To receive a copy of the interpretive or policy statement, contact Ann Myers, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45530, Olympia, WA 98504, phone (360) 664-2314, TDD 1-800-848-5429, fax (360) 753-7315, e-mail MYERSEA@dshs.wa.gov.

August 4, 1999

Leslie Saeger  
Regulatory Improvement  
Project Manager

**WSR 99-17-017****ATTORNEY GENERAL OPINION**

Cite as: AGO 1999 No. 5  
[June 21, 1999]

**ELECTIONS - CANDIDATES - VACANCY - OFFICES AND OFFICERS** - Authority of election officials to count votes cast for candidates who were qualified for office at time of filing but subsequently died or became disqualified.

1. If a candidate for partisan office dies prior to either the primary or general election, and the candidate's party does not substitute another candidate, the deceased candidate's name should remain on the election ballot.
2. If a candidate for judicial or other nonpartisan office dies before the primary or general election, the candidate's name should remain on the ballot; if the deceased candidate gains the most votes, the result is a vacancy in the office, to be filled as provided by law for the office in question.
3. If the name of a deceased candidate appears on the ballot, votes cast for the deceased candidate should be counted; if the deceased candidate gains the most votes, the result is a vacancy in the office; the person with the second highest vote total is not entitled to a certificate of election.

The Honorable Ralph Munro  
Secretary of State  
P.O. Box 40220  
Olympia, WA 98504-0220

**WSR 99-17-018****ATTORNEY GENERAL OPINION**

Cite as: AGO 1999 No. 6  
[July 7, 1999]

**LAW ENFORCEMENT OFFICERS - FIREFIGHTERS - PRISONS - EMERGENCY MEDICAL PERSONNEL - MINORS - FIREARMS** - Eligibility of persons between the ages of 18 and 21 to serve in various positions.

There is no statute barring a person over 18 years of age but less than 21 years of age from serving as a law enforcement officer, a prison guard, a firefighter, or a paramedic, provided that the person otherwise meets all qualifications for the job in question.

The Honorable Margarita Prentice  
State Senator, 11th District  
PO Box 40600  
Olympia, WA 98504-0600

**WSR 99-17-019****ATTORNEY GENERAL OPINION**

Cite as: AGO 1999 No. 7  
[July 21, 1999]

**GAMBLING - GAMBLING COMMISSION** - Authority of gambling commission to define pull-tabs to include video pull-tabs.

The state gambling commission has delegated authority to define what is including in the term "pull-tabs," but this authority does not extend to define "video pull-tabs" as "pull-tabs", because a paper ticket or folder is a fundamental element of a pull tab.

The Honorable Elizabeth McLaughlin, Chair  
Washington State Gambling Commission  
PO Box 42400  
Olympia, Washington 98504-2400

**WSR 99-17-020**  
**INSURANCE COMMISSIONER'S OFFICE**

[Filed August 9, 1999, 3:27 p.m.]

**OFFICE OF**  
**INSURANCE COMMISSIONER**

In the Matter of the Disclaimer of Control in relation to the Acquisition of **SAFECO CORPORATION.** ) No. G 99 - 45  
 ) NOTICE OF  
 ) HEARING

TO: Roger Egisti, President  
SAFECO Corporation  
SAFECO Plaza  
Seattle, Washington 98185

Philip de Toledo, Sr. Vice President  
The Capital Group Companies, Inc.  
333 Hope Street  
Los Angeles, California 90071

J. Michael Low  
Low & Childers, Inc.  
2999 North 44th Street, Suite 250  
Phoenix, Arizona 85018

**Insurance Commissioners per attached list**

SAFECO Corporation is a Washington domestic insurance holding company. SAFECO Corporation is the ultimate controlling person of the following Washington domestic insurance companies:

- Empire Life Insurance Company
- First National Insurance Company of America
- General Insurance Company of America
- SAFECO Insurance Company of America
- SAFECO Life Insurance Company
- SAFECO National Life Insurance Company
- SAFECO Surplus Lines Insurance Company

Capital Group Companies, Inc. is the parent of some number of subsidiaries referred to as CGC Management Companies. Capital Group Companies, Inc. filed its disclaimer of control as to the identified Washington domestic insurers in anticipation of its acquisition of 10% or more of the voting stock of SAFECO Corporation.

The acquisition of a domestic Washington insurance company is controlled by Chapter 48.31B RCW. RCW 48.31B.005 establishes a presumption of control "if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person."

Order No. G 99-45  
Notice of Hearing

Page Two

YOU ARE HEREBY NOTIFIED that a hearing will be held commencing Thursday, September 16, 1999, at 10:00 a.m. in the 2nd Floor Conference Room at 420 Golf Club Road, Lacey, Washington 98503, to consider all appropriate action concerning the proposed acquisition of SAFECO Corporation as described in the Disclaimer of Control attached to this notice as Exhibit A.

The hearing will be held under the authority granted the Commissioner by RCW 48.02.060(3) and RCW 48.31B.-025(11).

The basic facts relied upon are those set forth in the Disclaimer of Control filed with the Commissioner. The complete Disclaimer of Control will be made part of the record of the hearing.

The Commissioner has not taken, and will not take, any position on this matter prior to entry of the hearing order.

All parties may be represented at the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved, as required by the Administrative Procedure Act. The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. A party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW.

The Commissioner will be represented by James Tompkins, Assistant Deputy Commissioner.

Deputy Insurance Commissioner James T. Odiorne has been designated to hear and determine this matter. His address is Office of the Insurance Commissioner, Post Office Box 40259, Olympia, Washington 98504-0259. His telephone number is (360) 407-0420.

ENTERED AT OLYMPIA, WASHINGTON, this 4th day of August, 1999.

**DEBORAH SENN**  
Insurance Commissioner

By:

**JAMES T. ODIORNE, CPA, JD**  
Deputy Insurance Commissioner  
Company Supervision Division

John Ference, Acting Director of Insurance  
Alaska Division of Insurance  
Dept. of Commerce & Economic Dev.  
P. O. Box 110805  
Juneau, Alaska 99811-0805

David Parsons, Acting Commissioner  
Alabama Department of Insurance  
201 Monroe Street, Suite 1700  
Montgomery, Alabama 36104

Mike Pickens, Insurance Commissioner  
Arkansas Department of Insurance

MISC.



1200 West 3rd Street  
Little Rock, Arkansas 72201-1904

Chuck Cohen, Director of Insurance  
Arizona Department of Insurance  
2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018-7256

Chuck Quackenbush, Insurance Commissioner  
California Department of Insurance  
300 Capitol Mall, Suite 1500  
Sacramento, California 95814

William J. Kirven, Insurance Commissioner  
Colorado Division of Insurance  
1560 Broadway, Suite 850  
Denver, Colorado 80202

George M. Reider, Jr., Insurance Commissioner  
Connecticut Department of Insurance  
P.O. Box 816  
Hartford, Connecticut 06142-0816

Reginald Berry, Acting Commissioner of Insurance  
Dept. Of Insurance & Securities Reg.  
Government of the District of Columbia  
810 First Street, N. E.  
Suite 701  
Washington, DC 20002

Donna Lee Williams, Commissioner of Insurance  
Delaware Department of Insurance  
Rodney Building  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Bill Nelson, Commissioner of Insurance  
Florida Department of Insurance  
State Capitol  
Plaza Level Eleven  
Tallahassee, Florida 32399-0300

John Oxendine, Insurance Commissioner  
Georgia Department of Insurance  
2 Martin L. King, Jr. Dr.  
Floyd Memorial Bldg., 704 West Tower  
Atlanta, Georgia 30334

Wayne Metcalf, Insurance Commissioner  
Hawaii Insurance Division  
Dept. of Commerce & Consumer Affairs  
P.O. Box 3614  
Honolulu, Hawaii 96811-3614

Terri Vaughan, Insurance Commissioner  
Division of Insurance  
State of Iowa  
330 E. Maple Street  
Des Moines, Iowa 50319

Mary L. Hartung, Director of Insurance  
Idaho Department of Insurance  
700 West State Street, 3rd Floor  
Boise, Idaho 83720-0043

Nathaniel S. Shapo, Director of Insurance  
Illinois Department of Insurance  
320 West Washington St., 4th Floor  
Springfield, Illinois 62767-0001

Sally McCarty, Insurance Commissioner  
Indiana Department of Insurance  
311 W. Washington Street, Suite 300  
Indianapolis, Indiana 46204-2787

Kathleen Sebelius, Insurance Commissioner  
Kansas Department of Insurance  
420 S.W. 9th Street  
Topeka, Kansas 66612-1678

George Nichols III, Insurance Commissioner  
Kentucky Department of Insurance  
P.O. Box 517  
215 West Main Street  
Frankfort, Kentucky 40602-0517

James H. Brown, Insurance Commissioner  
Louisiana Department of Insurance  
P.O. Box 94214  
Baton Rouge, Louisiana 70804-9214

Linda Ruthardt, Insurance Commissioner  
Division of Insurance  
Commonwealth of Massachusetts  
470 Atlantic Avenue, 6th floor  
Boston, Massachusetts 02210-2223

Steven B. Larsen, Insurance Commissioner  
Maryland Insurance Administration  
525 St. Paul Place  
Baltimore, Maryland 21202-2272

Alessandro Iuppa, Superintendent of Insurance  
Maine Bureau of Insurance  
Dept. of Professional & Financial Reg.  
State Office Building, Station 34  
Augusta, Maine 04333-0034

Frank Fitzgerald, Insurance Commissioner  
Michigan Insurance Bureau  
Department of Commerce  
611 W. Ottawa Street, 2nd Floor North  
Lansing, Michigan 48933-1020

David Jennings, Insurance Commissioner  
Minnesota Department of Commerce  
133 East 7th Street  
St. Paul, Minnesota 55101

Keith Wenzel, Director of Insurance  
Missouri Department of Insurance  
301 West High Street, 6 North  
Jefferson City, Missouri 65102-690

George Dale, Insurance Commissioner  
Mississippi Insurance Department  
P.O. Box 79  
Jackson, Mississippi 39205

Mark O'Keefe, Insurance Commissioner  
Montana Department of Insurance  
126 North Sanders  
270 Mitchell Building  
Helena, Montana 59601

Jim Long, Insurance Commissioner  
North Carolina Department of Insurance  
P.O. Box 26387  
Raleigh, North Carolina 27611

Glenn Pomeroy, Insurance Commissioner  
North Dakota Department of Insurance  
600 E. Boulevard  
Bismarck, North Dakota 58505-0320

Tim Wagner, Director of Insurance  
Nebraska Department of Insurance  
Terminal Building, Suite 400  
941 'O' Street  
Lincoln, Nebraska 68508

Paula Rogers, Insurance Commissioner  
Department of Insurance  
State of New Hampshire  
56 Old Suncook Road  
Concord, New Hampshire 03301

Jayne LaVecchia, Insurance Commissioner  
New Jersey Department of Insurance  
20 West State Street CN325  
Trenton, New Jersey 08625

Michael C. Batte, Acting Superintendent of Insurance  
New Mexico Department of Insurance  
P.O. Drawer 1269  
Santa Fe, New Mexico 87504-1269

Alice Molasky-Arman, Insurance Commissioner  
Nevada Division of Insurance  
1665 Hot Springs Road, Suite 152  
Carson City, Nevada 89706-0661

Neil D. Levin, Superintendent of Insurance  
New York Department of Insurance  
25 Beaver Street  
New York, New York 10004-2319

Lee Covington, Director of Insurance  
Ohio Department of Insurance  
2100 Stella Court  
Columbus, Ohio 43215-1067

Carroll Fisher, Insurance Commissioner  
Oklahoma Department of Insurance  
3814 N. Santa Fe  
Oklahoma City, Oklahoma 73118

Mike Greenfield, Director of Insurance  
Oregon Division of Insurance  
Dept. of Consumer & Business Services  
350 Winter Street NE, Room 200  
Salem, Oregon 97310-0700

Diane Koken, Insurance Commissioner  
Pennsylvania Insurance Department  
1326 Strawberry Square, 13th Floor  
Harrisburg, Pennsylvania 17120

Alfonso E. Mastrostefano, Superintendent of Insurance  
Rhode Island Insurance Division  
Dept. of Business Regulation  
233 Richmond Street, Suite 233  
Providence, Rhode Island 02903-4233

Ernst Csiszar, Director of Insurance  
South Carolina Department of Insurance  
P.O. Box 100105  
Columbia, South Carolina 29202-3105

Darla L. Lyon, Director of Insurance  
South Dakota Division of Insurance  
Dept. of Commerce & Regulation  
118 West Capitol Avenue  
Pierre, South Dakota 57501-2000

Doug Sizemore, Insurance Commissioner  
Tennessee Department of Commerce  
& Insurance  
Volunteer Plaza  
500 James Robertson Parkway  
Nashville, Tennessee 37243-0565

Jose Montemayor, Insurance Commissioner  
Texas Department of Insurance  
P.O. Box 149104  
Austin, Texas 78714-9104

Merwin Stewart, Insurance Commissioner  
Utah Department of Insurance  
3110 State Office Building  
Salt Lake City, Utah 84114-1201

Alfred W. Gross, Insurance Commissioner  
State Corporation Commission  
Bureau of Insurance  
Commonwealth of Virginia  
P.O. Box 1157  
Richmond, Virginia 23218

Elizabeth R. Costle, Insurance Commissioner  
Vermont Division of Insurance  
Dept. of Banking, Insurance & Securities  
89 Main Street, Drawer 20  
Montpelier, Vermont 05620-3101

Deborah Senn, Insurance Commissioner  
Washington Office of the Insurance Commissioner  
P.O. Box 40255  
Olympia, Washington 98504-0255

Connie O'Connell, Insurance Commissioner  
Office of the Commissioner of Insurance  
State of Wisconsin  
P.O. Box 7873  
Madison, Wisconsin 53707-7873

MISC.

Hanley C. Clark, Insurance Commissioner  
West Virginia Department of Insurance  
P.O. Box 50540  
Charleston, West Virginia 25305-0540

John P. McBride, Insurance Commissioner  
Wyoming Department of Insurance  
Herschler Building  
122 West 25th Street, 3rd East  
Cheyenne, Wyoming 82002-0440

**WSR 99-17-021****AGENDA****INSURANCE COMMISSIONER'S OFFICE**

[Filed August 9, 1999, 3:28 p.m.]

**Semi-Annual Rules Agenda  
August, 1999**

In accordance with RCW 34.05.314, Insurance Commissioner Deborah Senn states that the following rules are currently scheduled for consideration during the period of July 31, 1999, to December 31, 1999.

- R 98-7 Mental health benefits - increase uniformity in the terminology used in advertising.
- R 98-12 Requirements for rate filings - provide consistent and up-to-date guidelines for filing of rate schedules, and specify the standard to be used to determine when benefits are unreasonable in relation to the proposed premium.
- R 98-14 Washington Medicare supplement insurance regulation. Improve clarity and efficiency of rules and amend the chapter to reflect the passage of the Balanced Budget Act of 1997 (BBA).
- R 98-15 Long-term care - improve clarity and efficiency of rules and address HIPAA issues.
- R 98-16 Washington disability insurance regulation - improve clarity and efficiency of rules.
- R 98-17 Manage care plans - current rules governing health care carriers may need revision and/or new rule development to create consistent and fair standards for grievance procedures in health plans. Some provisions of chapter 284-43 WAC may need correction as a consequence of changes in federal laws. New problems have been raised by the health care community relating to contracts between providers and health plans may be addressed in these proposed rules.
- R 98-18 Out-of-state groups - update and clarify and review overall regulatory scheme to determine if it is the most complete, efficient, and effective way of regulating this area and protecting consumers receiving coverage in Washington state.

**WSR 99-17-022**

**NOTICE OF PUBLIC MEETINGS  
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—August 10, 1999]

The regularly scheduled meeting of the board of trustees of Bellingham Technical College will be held on Thursday, August 19, 1999, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 ext. 334 for information.

**WSR 99-17-032****DEPARTMENT OF AGRICULTURE**

[Filed August 11, 1999, 1:56 p.m.]

**Suspension of Marketing Order Rules  
Pertaining to Assessments for the  
Washington State Egg Commission  
January 1, 2000 through December 31, 2000**

The chairman of the Washington Egg Commission (WEC), in a letter dated July 9, 1999, requested a suspension of the marketing order rules pertaining to the annual assessment on all eggs contained in WAC 16-514-040. I have reviewed the chairman's request, as well as the minutes of the WEC board meeting of June 30, 1999, where the proposed suspension was discussed and voted on by the WEC. Based on this documentation, I have decided to act on the requested suspension.

RCW 16.65.180(2) allows the director of the Department of Agriculture to "[s]uspend any such [marketing] agreement or order or term or provision thereof for a period not to exceed one year, if he finds that such suspension will tend to effectuate the declared policy of this chapter: PROVIDED, That any such suspension of all or substantially all of such agreement or order shall not become effective until the end of the then current marketing season."

In addition, when the director determines, with the advice of the commodity board, that such a suspension would achieve the declared policy of chapter 15.65 RCW, the provisions for conducting public hearings may be waived. RCW 15.65.180.

I have determined that suspension of the annual assessment on all eggs will accomplish the stated policy of chapter 15.65 RCW. The WEC operates on a fiscal-year basis rather than a marketing season, and RCW 16.65.180 requires any suspension to be confined to one-year beginning at the end of the current marketing season. **I am, therefore, suspending the annual assessment of the Washington Egg Commission for a period of one year beginning January 1, 2000, and ending December 31, 2000.**

Even though the public hearing process may be waived under RCW 15.65.180, I ask that this finding be published in the Washington State Register.

Jim Jesernig  
Director

**WSR 99-17-035**

**NOTICE OF PUBLIC MEETINGS  
WORKFORCE TRAINING AND  
EDUCATION COORDINATING BOARD**

[Memorandum—August 10, 1999]

The September 29, 1999, WTECB meeting has been changed to a special meeting, August 24, 1999, and will be held from 11:00 a.m. to 1:15 p.m. at the Association of Washington Business, Olympia, Washington.

If you have any questions, call (360) 753-5677.

**WSR 99-17-037**

**NOTICE OF PUBLIC MEETINGS  
CONVENTION AND TRADE  
CENTER**

[Memorandum—August 11, 1999]

The August 18, 1999, regular meeting of the Washington State Convention and Trade Center board of directors has been cancelled.

If you have any questions regarding this meeting, please call (206) 694-5000.

**WSR 99-17-049**

**NOTICE OF PUBLIC MEETINGS  
INTERAGENCY COMMITTEE  
FOR OUTDOOR RECREATION**

[Memorandum—August 12, 1999]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday, September 23, 1999, beginning at 8:30 a.m. in Room 175 of the Natural Resources Building in Olympia, Washington.

This meeting is a funding recommendation session for projects in the local parks category of the Washington wild-life and recreation program and the national recreational trails program. Additional agenda items include adoption of the 2000 IAC meeting schedule, approval of any 2000 agency legislative proposals, discussion and approval of the Habitat Conservation Account Evaluation Instrument and Criteria, and a demonstration of the recently developed boat launch web site.

If you plan to participate or have materials for committee review, please submit information to IAC no later than September 2, 1999. This will allow for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by September 2 at (360) 902-3000 or TDD (360) 902-1996.

**WSR 99-17-051**

**NOTICE OF PUBLIC MEETINGS  
COMMISSION ON  
JUDICIAL CONDUCT**

[Memorandum—August 12, 1999]

Please be advised that the proposed amendments to Rule 11 filed on May 5, 1999 (WSR 99-10-109) are withdrawn. The proposed alternative rule was directed to the commission's rules committee for further study and future report to the commission.

If you have any questions, please call 753-4585.

David Akana  
Executive Director

**WSR 99-17-059**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed August 13, 1999, 11:42 a.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: CN 190.  
Subject: IRS injured spouse claims.  
Effective Date: June 30, 1999.

Document Description: The federal government has made some changes to its procedures. The CN 190 document explains DCS policy and procedures in light of these federal changes. The IRS expects that, due to this change in procedures, the number of IRS reversals will increase by approximately 300%. As a result, DCS may experience an increase in its IRS receivables.

To receive a copy of the interpretive or policy statement, contact Rene Bressieux, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5226, TDD (360) 753-9122, fax (360) 586-3274, e-mail rbressie@dshs.wa.gov.

July 15, 1999  
Rene Bressieux

**WSR 99-17-060**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed August 13, 1999, 11:43 a.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: CN 189.  
Subject: Case transfer.  
Effective Date: May 27, 1999.

Document Description: This document clarifies how and when staff are to appropriately transfer a case. This Canary Notice was developed, in part, by a Quality Improvement Team made up of DCS staff from various field offices.

MISC.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

May 27, 1999  
Stephanie E. Schiller

**WSR 99-17-061**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed August 13, 1999, 11:44 a.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: CN 188 Changes in Case File Document Retention.

Subject: Document archives.

Effective Date: June 4, 1999.

Document Description: Explains the policy and procedure for maintaining DCS case file records.

To receive a copy of the interpretive or policy statement, contact Rene Bressieux, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5226, TDD (360) 753-9122, fax (360) 586-3274, e-mail rbressie@dshs.wa.gov.

July 15, 1999  
Rene Bressieux

**WSR 99-17-062**  
**INTERPRETIVE OR POLICY STATEMENT**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

[Filed August 13, 1999, 11:45 a.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: CN 187.

Subject: Case closure.

Effective Date: May 27, 1999.

Document Description: This document explains to staff the changes made in federal regulations that establish case closure criteria. The notice replaces section 18.000 in the Support Enforcement Handbook.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

May 28, 1999  
Stephanie E. Schiller

**WSR 99-17-071**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**  
[Filed August 13, 1999, 4:36 p.m.]

**NOTICE OF ADOPTION OF POLICY STATEMENT**

Title of Policy: Handling Complaints Involving Board Members, D14.02.

Issuing Entity: Health Professions Quality Assurance, Department of Health.

Subject Matter: This revises the current division policy. This policy establishes policy and procedure to comply with the Governor's Office direction to process complaints against board members or other practitioners so there is no real or perceived conflict of interest or bias.

Effective Date: April 27, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations Office, Health Professions Quality Assurance, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

**WSR 99-17-072**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**  
[Filed August 13, 1999, 4:37 p.m.]

**NOTICE OF ADOPTION OF POLICY STATEMENT**

Title of Policy: Guidelines Prohibiting Discrimination Against Individuals with a Disability, D19.02.

Issuing Entity: Health Professions Quality Assurance, Department of Health.

Subject Matter: This revises the current division policy. This policy establishes guidelines for disciplinary authorities to follow when taking disciplinary actions so they are in compliance with the American with Disabilities Act (ADA).

Effective Date: June 8, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations Office, Health Professions Quality Assurance, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

**WSR 99-17-073**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**  
[Filed August 13, 1999, 4:38 p.m.]

**NOTICE OF ADOPTION OF POLICY STATEMENT**

Title of Policy: Protecting Confidentiality of Whistleblower Complainants, D20.03.

Issuing Entity: Health Professions Quality Assurance, Department of Health.

Subject Matter: This revises the current division policy. This policy applies whenever a whistleblower (consumer,

MISC.

employee or health care professional) files a complaint alleging improper quality of care against a health care provider or a health care facility. This policy applies to all complaints where case management determines the name of the complainant must be released in order to investigate or take action on the complaint.

Effective Date: May 4, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations Office, Health Professions Quality Assurance, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

**WSR 99-17-074**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**

[Filed August 13, 1999, 4:39 p.m.]

**NOTICE OF ADOPTION OF POLICY STATEMENT**

Title of Policy: Notifying Practitioners and Complainants Upon Receipt of Complaints and Case Disposition, D23.03.

Issuing Entity: Health Professions Quality Assurance, Department of Health.

Subject Matter: This revises the current division policy. This policy establishes a process for notifying practitioners and complainants of the existence and disposition of complaints and reports.

Effective Date: June 14, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations Office, Health Professions Quality Assurance, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

**WSR 99-17-075**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**

[Filed August 13, 1999, 4:40 p.m.]

**NOTICE OF ADOPTION OF POLICY STATEMENT**

Title of Policy: Unlicensed Practice Cases, D10.02.

Issuing Entity: Health Professions Quality Assurance, Department of Health.

Subject Matter: This revises the current division policy. This policy applies to all unlicensed practice complaints received in the Health Professions Quality Assurance.

Effective Date: April 20, 1999.

Contact Person: Linda McCue, Project Manager, Department of Health, Health Policy and Constituent Relations Office, Health Professions Quality Assurance, P.O. Box 47860, 1300 S.E. Quince Street, Olympia, WA 98504-7860, (360) 236-4986.

**WSR 99-17-089**

**AGENDA**

**FOREST PRACTICES BOARD**

[Filed August 17, 1999, 10:52 a.m.]

**Forest Practices Board**  
**Rule Development Agenda**  
**July-December 1999**

Numerous sections of Title 222 WAC, Forest Practices Board, are in the rule-making process or being developed. The board's mandate is to adopt rules to protect the state's natural resources while maintaining a viable forest products industry.

**1. Forestry Module**

The board initiated the rule-making process with an initial draft of the forestry module proposed rules on October 12, 1998. The notice was published on November 4, 1999, (WSR 98-21-015); text was published on December 2, 1998. A continuance of this filing was published in WSR 99-09-078, and the text was published on June 2, 1999. The proposed rules incorporate new public resource protection requirements in the following categories: Riparian protection for fish-bearing and nonfish-bearing streams; water typing; wetlands; Class IV-Special; SEPA guidance; application procedures; roads; slope stability; forest chemicals; enforcement; monitoring; adaptive management; and watershed analysis.

The board received five comprehensive proposals for permanent forestry module rules, conducted scoping for an EIS, and has identified three alternatives for environmental review. DNR has contracted the preparation of the Draft EIS and anticipates publication in early 2000.

New draft permanent rules are being prepared that would implement the Forests and Fish Report (April 29, 1999) and ESHB 2091 (effective August 19, 1999). In December 1999, the board plans to conduct the thirty day review required by the Forest Practices Act. A supplemental notice, along with the second phase of the small business economic impact statement, may be filed in February 2000. Public hearings are scheduled for April 2000. All of these dates are subject to change.

In the interim, the board has continued an emergency stream typing rule:

- WAC 222-16-030. Water Typing Systems. The emergency rule modifies the definitions of Type 2 and 3 waters so that appropriate riparian protection is provided along fish-bearing streams.
- WAC 222-12-090(13). Implementation guidelines in the Forest Practices Board Manual.

The board has also readopted an emergency rule to protect threatened and endangered salmonids listed by the United States Fish and Wildlife Service and the National Marine Fisheries Service. The rule provides protection to the listed species by setting SEPA triggers that would classify certain forest practices within the listed areas as Class IV-Special. The rule includes a "salmonid listed areas" map; SEPA guidance; road maintenance and abandonment plan requirements; and stream temperature provisions for some nonfish-bearing streams in listed areas.

MISC.

ESHB 2091 passed by the 1999 legislature declares salmon recovery efforts an emergency and provides additional power to the Forest Practices Board to adopt emergency rules to protect aquatic resources based on the Forests and Fish Report. These emergency rules must be published in the Washington State Register and a public hearing with opportunity for oral and written comment must be held. These new emergency rules would remain in effect until permanent forestry module rules are adopted or until June 30, 2001.

The board's current schedule for adopting new emergency rules includes public review during October 1999, a public hearing and adoption in November 1999. The rules would have a delayed effective date of January 1, 2000, in order to allow time for training of DNR staff and stakeholders.

## 2. Rule-Making Petitions

A. Forest practices on saltwater islands. The board anticipates including some of the issues raised by SaltWater Islanders for Timbered lands (SWIFT) in the proposed permanent forestry module rules. The board's islands committee has not yet established a timeline for dealing with the other issues.

B. Use of chemical sprays near organic farms. This issue may be considered in the chemicals section of the proposed forestry module rules.

C. Vulnerable forest soils. The department will report to the board on this issue at the February 9, 2000 regular meeting.

## 3. Small Landowner Pilot Rule Making

In 1997, the board had anticipated pilot rule making to address issues of concern to small forest landowners. Later, the board's small landowner committee deferred to the forestry module negotiations to make recommendations. New legislation (ESHB 2091) establishes a small forest landowner office and advisory committee, and includes an exemption from the new rules for owners of less than twenty acres.

## 4. Other

The board plans to include some editorial and procedural rules with the supplemental notice for proposed forestry module rules. These include corrections, SEPA guidance, clarifying some watershed analysis rules, clarifying timelines associated with civil penalty appeals, and reviewing forest practices relationship with other laws.

**Contact Person:** Judith Holter, FPB Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1412, fax (360) 902-1789, e-mail judith.holter@wadnr.gov.

## WSR 99-17-090

### NOTICE OF PUBLIC MEETINGS FOREST PRACTICES BOARD

[Memorandum—August 17, 1999]

#### Notice of Special Meeting

Per RCW 42.30.080, the Forest Practices Board will hold a special meeting on September 29, 1999, at 9:00 a.m. in Room 172 of the Natural Resources Building, Olympia. The board will review drafts of a new emergency rule to implement parts of the Forests and Fish Report. The board will consider sending the new emergency rule out for public review. An executive session may also be held.

The agenda will be distributed to the public at least one week before the meeting. To be added to the board mail list, please contact Forest Practices Board Recording Secretary, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, TTY (360) 902-1125, fax (360) 902-1789, e-mail forest.practicesboard@wadnr.gov.

## WSR 99-17-100

### NOTICE OF PUBLIC MEETINGS COMMISSION ON JUDICIAL CONDUCT

[Memorandum—August 17, 1999]

This memo will revise the 1999 Commission on Judicial Conduct meeting schedule submitted to your office by memo dated November 19, 1998.

The location for the business session previously scheduled for 11:00 a.m. on Friday, October 1, 1999, at the SeaTac Holiday Inn has been **changed**. The meeting will now be held at the Radisson Hotel, 17001 Pacific Highway South, SeaTac, WA 98188.

## WSR 99-17-103

### NOTICE OF PUBLIC MEETINGS COLUMBIA BASIN COLLEGE

[Memorandum—August 18, 1999]

Columbia Basin College  
Board of Trustees  
MEETING SCHEDULE 1999-2000

The Columbia Basin College board of trustees meets the **second Tuesday** of each month at 5 p.m. with the exception of August when there is no scheduled meeting.

September 14

October 12

November 9

December 14

January 11

February 8

March 14  
April 11  
May 9  
June 13  
July 11  
August - pass

Please note this is a change from the previous year's meeting day.

MISC.



**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.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
4- 25-510	AMD-P	99-13-060	10- 08-090	AMD-P	99-17-107	16- 12-001	REP-XR	99-16-087
4- 25-530	PREP	99-05-025	10- 08-110	AMD-P	99-17-107	16- 12-010	REP-XR	99-16-087
4- 25-530	AMD-P	99-13-061	10- 08-120	AMD-P	99-17-107	16- 12-015	REP-XR	99-16-087
4- 25-730	AMD-P	99-13-062	10- 08-130	AMD-P	99-17-107	16- 12-020	REP-XR	99-16-087
4- 25-740	REP-P	99-13-075	10- 08-135	NEW-P	99-17-107	16- 12-025	REP-XR	99-16-087
4- 25-745	NEW-P	99-13-063	10- 08-140	AMD-P	99-17-107	16- 12-030	REP-XR	99-16-087
4- 25-746	NEW-P	99-13-064	10- 08-150	AMD-P	99-17-107	16- 12-035	REP-XR	99-16-087
4- 25-750	PREP	99-05-026	10- 08-160	AMD-P	99-17-107	16- 12-040	REP-XR	99-16-087
4- 25-750	AMD-P	99-13-065	10- 08-180	AMD-P	99-17-107	16- 12-045	REP-XR	99-16-087
4- 25-760	REP-P	99-13-076	10- 08-200	AMD-P	99-17-107	16- 12-050	REP-XR	99-16-087
4- 25-780	PREP	99-05-027	10- 08-210	AMD-P	99-17-107	16- 12-055	REP-XR	99-16-087
4- 25-780	AMD-P	99-13-066	10- 08-217	NEW-P	99-17-107	16- 12-060	REP-XR	99-16-087
4- 25-790	NEW-P	99-13-067	10- 08-219	NEW-P	99-17-107	16- 12-065	REP-XR	99-16-087
4- 25-791	NEW-P	99-13-068	10- 08-251	AMD-P	99-17-107	16- 12-070	REP-XR	99-16-087
4- 25-792	NEW-P	99-13-069	10- 08-260	REP-P	99-17-107	16- 12-075	REP-XR	99-16-087
4- 25-795	NEW-P	99-13-070	10- 08-261	REP-P	99-17-107	16- 12-080	REP-XR	99-16-087
4- 25-810	REP-P	99-13-077	10- 12	PREP	99-13-188	16- 12-085	REP-XR	99-16-087
4- 25-811	REP-P	99-13-077	10- 12-010	AMD-P	99-17-107	16- 12-090	REP-XR	99-16-087
4- 25-812	REP-P	99-13-077	10- 12-020	AMD-P	99-17-107	16- 12-095	REP-XR	99-16-087
4- 25-813	REP-P	99-13-078	10- 16-010	NEW-P	99-17-107	16- 12-100	REP-XR	99-16-087
4- 25-830	NEW-P	99-13-071	16- 05-005	REP-P	99-05-022	16- 12-105	REP-XR	99-16-087
4- 25-831	NEW-P	99-13-072	16- 05-005	REP	99-08-039	16- 12-110	REP-XR	99-16-087
4- 25-832	NEW-P	99-13-073	16- 05-010	AMD-P	99-05-022	16- 12-115	REP-XR	99-16-087
4- 25-833	NEW-P	99-13-074	16- 05-010	AMD	99-08-039	16- 12-120	REP-XR	99-16-087
10- 04	PREP	99-13-188	16- 05-015	REP-P	99-05-022	16- 12-125	REP-XR	99-16-087
10- 04-010	AMD-P	99-17-107	16- 05-015	REP	99-08-039	16- 12-130	REP-XR	99-16-087
10- 04-020	AMD-P	99-17-107	16- 05-020	REP-P	99-05-022	16- 12-135	REP-XR	99-16-087
10- 04-030	AMD-P	99-17-107	16- 05-020	REP	99-08-039	16- 12-140	REP-XR	99-16-087
10- 04-040	AMD-P	99-17-107	16- 05-025	REP-P	99-05-022	16- 12-145	REP-XR	99-16-087
10- 04-050	AMD-P	99-17-107	16- 05-025	REP	99-08-039	16- 12-150	REP-XR	99-16-087
10- 04-060	AMD-P	99-17-107	16- 05-030	REP-P	99-05-022	16- 12-155	REP-XR	99-16-087
10- 04-070	AMD-P	99-17-107	16- 05-030	REP	99-08-039	16- 12-160	REP-XR	99-16-087
10- 04-080	AMD-P	99-17-107	16- 05-035	REP-P	99-05-022	16- 12-165	REP-XR	99-16-087
10- 04-090	AMD-P	99-17-107	16- 05-035	REP	99-08-039	16- 12-170	REP-XR	99-16-087
10- 08	PREP	99-13-188	16- 05-040	AMD-P	99-05-022	16- 12-175	REP-XR	99-16-087
10- 08-001	AMD-P	99-17-107	16- 05-040	AMD	99-08-039	16- 12-180	REP-XR	99-16-087
10- 08-035	AMD-P	99-17-107	16- 05-045	REP-P	99-05-022	16- 12-185	REP-XR	99-16-087
10- 08-040	AMD-P	99-17-107	16- 05-045	REP	99-08-039	16- 12-190	REP-XR	99-16-087
10- 08-045	AMD-P	99-17-107	16- 10	PREP	99-11-056	16- 12-195	REP-XR	99-16-087
10- 08-050	AMD-P	99-17-107	16- 10-010	REP-XA	99-15-033	16- 12-200	REP-XR	99-16-087
10- 08-083	NEW-P	99-17-107	16- 10-020	REP-XA	99-15-033	16- 12-205	REP-XR	99-16-087
10- 08-085	NEW-P	99-17-107	16- 10-030	REP-XA	99-15-033	16- 12-210	REP-XR	99-16-087

**TABLE**



**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-20-050	REP	99-16-086	16-21-130	REP-XR	99-12-122	16-23-045	REP	99-16-086
16-20-060	REP-XR	99-12-122	16-21-130	REP	99-16-086	16-23-050	REP-XR	99-12-122
16-20-060	REP	99-16-086	16-21-135	REP-XR	99-12-122	16-23-060	REP	99-16-086
16-20-070	REP-XR	99-12-122	16-21-135	REP	99-16-086	16-23-060	REP-XR	99-12-122
16-20-070	REP	99-16-086	16-21-140	REP-XR	99-12-122	16-23-060	REP	99-16-086
16-20-080	REP-XR	99-12-122	16-21-140	REP	99-16-086	16-23-070	REP-XR	99-12-122
16-20-080	REP	99-16-086	16-21-145	REP-XR	99-12-122	16-23-070	REP	99-16-086
16-20-090	REP-XR	99-12-122	16-21-145	REP	99-16-086	16-23-075	REP-XR	99-12-122
16-20-090	REP	99-16-086	16-21-150	REP-XR	99-12-122	16-23-075	REP	99-16-086
16-20-100	REP-XR	99-12-122	16-21-150	REP	99-16-086	16-23-085	REP-XR	99-12-122
16-20-100	REP	99-16-086	16-21-155	REP-XR	99-12-122	16-23-085	REP	99-16-086
16-20-110	REP-XR	99-12-122	16-21-155	REP	99-16-086	16-23-090	REP-XR	99-12-122
16-20-110	REP	99-16-086	16-21-160	REP-XR	99-12-122	16-23-090	REP	99-16-086
16-20-120	REP-XR	99-12-122	16-21-160	REP	99-16-086	16-23-095	REP-XR	99-12-122
16-20-120	REP	99-16-086	16-21-165	REP-XR	99-12-122	16-23-095	REP	99-16-086
16-20-130	REP-XR	99-12-122	16-21-165	REP	99-16-086	16-23-100	REP-XR	99-12-122
16-20-130	REP	99-16-086	16-21-200	REP-XR	99-12-122	16-23-100	REP	99-16-086
16-20-140	REP-XR	99-12-122	16-21-200	REP	99-16-086	16-23-105	REP-XR	99-12-122
16-20-140	REP	99-16-086	16-21-205	REP-XR	99-12-122	16-23-105	REP	99-16-086
16-21-001	REP-XR	99-12-122	16-21-205	REP	99-16-086	16-23-110	REP-XR	99-12-122
16-21-001	REP	99-16-086	16-21-210	REP-XR	99-12-122	16-23-110	REP	99-16-086
16-21-010	REP-XR	99-12-122	16-21-210	REP	99-16-086	16-23-115	REP-XR	99-12-122
16-21-010	REP	99-16-086	16-21-215	REP-XR	99-12-122	16-23-115	REP	99-16-086
16-21-020	REP-XR	99-12-122	16-21-215	REP	99-16-086	16-23-120	REP-XR	99-12-122
16-21-020	REP	99-16-086	16-21-220	REP-XR	99-12-122	16-23-120	REP	99-16-086
16-21-025	REP-XR	99-12-122	16-21-220	REP	99-16-086	16-23-125	REP-XR	99-12-122
16-21-025	REP	99-16-086	16-22-001	REP-XR	99-12-122	16-23-125	REP	99-16-086
16-21-030	REP-XR	99-12-122	16-22-001	REP	99-16-086	16-23-150	REP-XR	99-12-122
16-21-030	REP	99-16-086	16-22-010	REP-XR	99-12-122	16-23-150	REP	99-16-086
16-21-035	REP-XR	99-12-122	16-22-010	REP	99-16-086	16-23-160	REP-XR	99-12-122
16-21-035	REP	99-16-086	16-22-011	REP-XR	99-12-122	16-23-160	REP	99-16-086
16-21-040	REP-XR	99-12-122	16-22-011	REP	99-16-086	16-23-165	REP-XR	99-12-122
16-21-040	REP	99-16-086	16-22-015	REP-XR	99-12-122	16-23-165	REP	99-16-086
16-21-045	REP-XR	99-12-122	16-22-015	REP	99-16-086	16-23-170	REP-XR	99-12-122
16-21-045	REP	99-16-086	16-22-020	REP-XR	99-12-122	16-23-170	REP	99-16-086
16-21-050	REP-XR	99-12-122	16-22-020	REP	99-16-086	16-23-175	REP-XR	99-12-122
16-21-050	REP	99-16-086	16-22-030	REP-XR	99-12-122	16-23-175	REP	99-16-086
16-21-055	REP-XR	99-12-122	16-22-030	REP	99-16-086	16-23-180	REP-XR	99-12-122
16-21-055	REP	99-16-086	16-22-040	REP-XR	99-12-122	16-23-180	REP	99-16-086
16-21-060	REP-XR	99-12-122	16-22-040	REP	99-16-086	16-24	PREP	99-13-180
16-21-060	REP	99-16-086	16-22-050	REP-XR	99-12-122	16-30	AMD-XA	99-07-115
16-21-065	REP-XR	99-12-122	16-22-050	REP	99-16-086	16-30	AMD	99-14-032
16-21-065	REP	99-16-086	16-22-060	REP-XR	99-12-122	16-30-001	REP-XA	99-07-115
16-21-070	REP-XR	99-12-122	16-22-060	REP	99-16-086	16-30-001	REP	99-14-032
16-21-070	REP	99-16-086	16-22-070	REP-XR	99-12-122	16-30-010	AMD-XA	99-07-115
16-21-075	REP-XR	99-12-122	16-22-070	REP	99-16-086	16-30-010	AMD	99-14-032
16-21-075	REP	99-16-086	16-22-080	REP-XR	99-12-122	16-30-100	REP-XA	99-07-115
16-21-080	REP-XR	99-12-122	16-22-080	REP	99-16-086	16-30-100	REP	99-14-032
16-21-080	REP	99-16-086	16-22-090	REP-XR	99-12-122	16-54-010	AMD-P	99-03-084
16-21-085	REP-XR	99-12-122	16-22-090	REP	99-16-086	16-54-010	AMD	99-09-023
16-21-085	REP	99-16-086	16-23-010	REP-XR	99-12-122	16-54-016	AMD-P	99-03-084
16-21-090	REP-XR	99-12-122	16-23-010	REP	99-16-086	16-54-016	REP	99-09-023
16-21-090	REP	99-16-086	16-23-012	REP-XR	99-12-122	16-54-018	NEW	99-09-023
16-21-095	REP-XR	99-12-122	16-23-012	REP	99-16-086	16-54-020	AMD-P	99-03-084
16-21-095	REP	99-16-086	16-23-014	REP-XR	99-12-122	16-54-020	AMD	99-09-023
16-21-100	REP-XR	99-12-122	16-23-014	REP	99-16-086	16-54-030	AMD-P	99-03-084
16-21-100	REP	99-16-086	16-23-020	REP-XR	99-12-122	16-54-030	AMD	99-09-023
16-21-105	REP-XR	99-12-122	16-23-020	REP	99-16-086	16-54-040	AMD-P	99-03-084
16-21-105	REP	99-16-086	16-23-025	REP-XR	99-12-122	16-54-040	AMD	99-09-023
16-21-110	REP-XR	99-12-122	16-23-025	REP	99-16-086	16-54-071	AMD-P	99-03-084
16-21-110	REP	99-16-086	16-23-030	REP-XR	99-12-122	16-54-071	AMD	99-09-023
16-21-115	REP-XR	99-12-122	16-23-030	REP	99-16-086	16-54-082	AMD-P	99-03-084
16-21-115	REP	99-16-086	16-23-035	REP-XR	99-12-122	16-54-082	AMD	99-09-023
16-21-120	REP-XR	99-12-122	16-23-035	REP	99-16-086	16-54-101	AMD-P	99-03-084
16-21-120	REP	99-16-086	16-23-040	REP-XR	99-12-122	16-54-101	AMD	99-09-023
16-21-125	REP-XR	99-12-122	16-23-040	REP	99-16-086	16-54-120	AMD-P	99-03-084
16-21-125	REP	99-16-086	16-23-045	REP-XR	99-12-122	16-54-120	AMD	99-09-023

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-54-135	AMD-P	99-03-084	16-89-040	NEW-P	99-03-086	16-142-020	REP	99-13-048
16-54-135	AMD	99-09-023	16-89-040	NEW	99-09-026	16-142-030	REP-P	99-09-095
16-54-150	REP-P	99-03-084	16-89-050	NEW-P	99-03-086	16-142-030	REP	99-13-048
16-54-150	REP	99-09-023	16-89-050	NEW	99-09-026	16-142-040	REP-P	99-09-095
16-59	AMD-P	99-03-085	16-89-060	NEW-P	99-03-086	16-142-040	REP	99-13-048
16-59-001	AMD-P	99-03-085	16-89-060	NEW	99-09-026	16-142-050	REP-P	99-09-095
16-59-001	REP	99-09-024	16-89-070	NEW-P	99-03-086	16-142-050	REP	99-13-048
16-59-005	NEW	99-09-024	16-89-070	NEW	99-09-026	16-142-060	REP-P	99-09-095
16-59-010	AMD-P	99-03-085	16-89-080	NEW-P	99-03-086	16-142-060	REP	99-13-048
16-59-010	AMD	99-09-024	16-89-080	NEW	99-09-026	16-142-100	NEW-P	99-09-095
16-59-020	AMD-P	99-03-085	16-89-090	NEW-P	99-03-086	16-142-100	NEW	99-13-048
16-59-020	AMD	99-09-024	16-89-090	NEW	99-09-026	16-142-110	NEW-P	99-09-095
16-59-030	AMD-P	99-03-085	16-89-100	NEW-P	99-03-086	16-142-110	NEW	99-13-048
16-59-030	AMD	99-09-024	16-89-100	NEW	99-09-026	16-142-120	NEW-P	99-09-095
16-59-060	AMD-P	99-03-085	16-89-110	NEW-P	99-03-086	16-142-120	NEW	99-13-048
16-59-060	AMD	99-09-024	16-89-110	NEW	99-09-026	16-142-130	NEW-P	99-09-095
16-59-070	REP-P	99-03-085	16-89-120	NEW-P	99-03-086	16-142-130	NEW	99-13-048
16-59-070	REP	99-09-024	16-89-120	NEW	99-09-026	16-142-140	NEW-P	99-09-095
16-86	AMD-P	99-03-087	16-101-690	REP-XR	99-13-176	16-142-140	NEW	99-13-048
16-86-005	AMD-P	99-03-087	16-103	PREP	99-16-088	16-142-150	NEW-P	99-09-095
16-86-005	AMD	99-09-025	16-108	PREP	99-03-045	16-142-150	NEW	99-13-048
16-86-015	AMD-P	99-03-087	16-108-010	AMD-P	99-07-118	16-142-160	NEW-P	99-09-095
16-86-015	AMD	99-09-025	16-108-010	AMD	99-12-076	16-142-160	NEW	99-13-048
16-86-017	AMD-P	99-03-087	16-122-001	REP-XR	99-16-087	16-142-170	NEW-P	99-09-095
16-86-017	AMD	99-09-025	16-124-001	REP-XR	99-13-175	16-142-170	NEW	99-13-048
16-86-020	AMD-P	99-03-087	16-124-010	REP-XR	99-13-175	16-144	PREP	99-12-123
16-86-020	AMD	99-09-025	16-124-020	REP-XR	99-13-175	16-145	PREP	99-13-179
16-86-030	AMD-P	99-03-087	16-124-030	REP-XR	99-13-175	16-146	PREP	99-13-182
16-86-030	AMD	99-09-025	16-124-040	REP-XR	99-13-175	16-147	PREP	99-12-124
16-86-040	AMD-P	99-03-087	16-124-050	REP-XR	99-13-175	16-150-001	REP-XR	99-16-087
16-86-040	AMD	99-09-025	16-124-060	REP-XR	99-13-175	16-150-010	REP-XR	99-16-087
16-86-055	AMD-P	99-03-087	16-124-070	REP-XR	99-13-175	16-152-001	REP-XR	99-16-087
16-86-055	AMD	99-09-025	16-124-080	REP-XR	99-13-175	16-152-010	REP-XR	99-16-087
16-86-060	AMD-P	99-03-087	16-124-090	REP-XR	99-13-175	16-160-010	AMD-P	99-13-195
16-86-060	AMD	99-09-025	16-124-100	REP-XR	99-13-175	16-160-010	AMD	99-16-054
16-86-070	AMD-P	99-03-087	16-124-110	REP-XR	99-13-175	16-160-020	AMD-P	99-13-195
16-86-070	AMD	99-09-025	16-124-120	REP-XR	99-13-175	16-160-020	AMD	99-16-054
16-86-080	AMD-P	99-03-087	16-124-130	REP-XR	99-13-175	16-160-025	NEW-P	99-13-195
16-86-080	AMD	99-09-025	16-124-140	REP-XR	99-13-175	16-160-025	NEW	99-16-054
16-86-090	AMD-P	99-03-087	16-124-150	REP-XR	99-13-175	16-160-030	AMD-P	99-13-195
16-86-090	AMD	99-09-025	16-124-160	REP-XR	99-13-175	16-160-030	AMD	99-16-054
16-86-092	AMD-P	99-03-087	16-124-170	REP-XR	99-13-175	16-160-035	NEW-P	99-13-195
16-86-092	AMD	99-09-025	16-124-180	REP-XR	99-13-175	16-160-035	NEW	99-16-054
16-86-093	REP-P	99-03-087	16-124-190	REP-XR	99-13-175	16-160-040	AMD-P	99-13-195
16-86-093	REP	99-09-025	16-125	PREP	99-04-066	16-160-040	AMD	99-16-054
16-86-095	AMD-P	99-03-087	16-125	AMD-P	99-14-072	16-160-050	AMD-P	99-13-195
16-86-095	AMD	99-09-025	16-125-010	AMD-P	99-14-072	16-160-050	AMD	99-16-054
16-86-100	REP-P	99-03-087	16-125-020	AMD-P	99-14-072	16-160-060	AMD-P	99-13-195
16-86-100	REP	99-09-025	16-125-030	AMD-P	99-14-072	16-160-060	AMD	99-16-054
16-88-010	REP-XR	99-07-114	16-125-035	NEW-P	99-14-072	16-160-070	AMD-P	99-13-195
16-88-010	REP	99-14-031	16-125-040	REP-P	99-14-072	16-160-070	AMD	99-16-054
16-88-020	REP-XR	99-07-114	16-125-050	REP-P	99-14-072	16-160-090	AMD-P	99-13-195
16-88-020	REP	99-14-031	16-125-060	REP-P	99-14-072	16-160-090	AMD	99-16-054
16-88-030	REP-XR	99-07-114	16-125-070	REP-P	99-14-072	16-160-100	AMD-P	99-13-195
16-88-030	REP	99-14-031	16-125-080	REP-P	99-14-072	16-160-100	AMD	99-16-054
16-88-040	REP-XR	99-07-114	16-125-090	REP-P	99-14-072	16-160-110	NEW-P	99-13-195
16-88-040	REP	99-14-031	16-125-100	REP-P	99-14-072	16-160-110	NEW	99-16-054
16-89-005	NEW-P	99-03-086	16-125-120	AMD-P	99-14-072	16-165-100	NEW-P	99-08-088
16-89-005	NEW	99-09-026	16-125-200	AMD-P	99-14-072	16-165-100	NEW	99-13-001
16-89-010	NEW-P	99-03-086	16-125-210	AMD-P	99-14-072	16-165-110	NEW-P	99-08-088
16-89-010	NEW	99-09-026	16-129-050	PREP	99-13-177	16-165-110	NEW	99-13-001
16-89-015	NEW-P	99-03-086	16-142	PREP	99-04-067	16-165-120	NEW-P	99-08-088
16-89-015	NEW	99-09-026	16-142-001	REP-P	99-09-095	16-165-120	NEW	99-13-001
16-89-020	NEW-P	99-03-086	16-142-001	REP	99-13-048	16-165-130	NEW-P	99-08-088
16-89-020	NEW	99-09-026	16-142-010	REP-P	99-09-095	16-165-130	NEW	99-13-001
16-89-030	NEW-P	99-03-086	16-142-010	REP	99-13-048	16-165-140	NEW-P	99-08-088
16-89-030	NEW	99-09-026	16-142-020	REP-P	99-09-095	16-165-140	NEW	99-13-001

Table

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-165-150	NEW-P	99-08-088	16-228-1110	NEW-XA	99-15-033	16-228-215	REP-XA	99-15-033
16-165-150	NEW	99-13-001	16-228-1120	NEW-XA	99-15-033	16-228-220	REP-XA	99-15-033
16-165-160	NEW-P	99-08-088	16-228-1130	NEW-XA	99-15-033	16-228-223	REP-XA	99-15-033
16-165-160	NEW	99-13-001	16-228-1140	NEW-XA	99-15-033	16-228-225	REP-XA	99-15-033
16-167-010	AMD-P	99-07-117	16-228-115	REP-XA	99-15-033	16-228-227	REP-XA	99-15-033
16-167-010	AMD	99-12-020	16-228-1150	NEW-XA	99-15-033	16-228-230	REP-XA	99-15-033
16-167-020	AMD-P	99-07-117	16-228-116	REP-XA	99-15-033	16-228-232	REP-XA	99-15-033
16-167-020	AMD	99-12-020	16-228-117	REP-XA	99-15-033	16-228-233	REP-XA	99-15-033
16-167-030	AMD-P	99-07-117	16-228-120	REP-XA	99-15-033	16-228-320	REP-XR	99-04-006
16-167-030	AMD	99-12-020	16-228-1200	NEW-XA	99-15-033	16-228-320	REP	99-07-113
16-167-040	AMD-P	99-07-117	16-228-1220	NEW-XA	99-15-033	16-228-330	REP-XR	99-04-006
16-167-040	AMD	99-12-020	16-228-1230	NEW-XA	99-15-033	16-228-330	REP	99-07-113
16-167-050	AMD-P	99-07-117	16-228-1240	NEW-XA	99-15-033	16-228-340	REP-XR	99-04-007
16-167-050	AMD	99-12-020	16-228-125	REP-XA	99-15-033	16-228-340	REP	99-07-112
16-168	PREP	99-13-181	16-228-1250	NEW-XA	99-15-033	16-228-400	REP-XA	99-15-033
16-200	PREP	99-12-101	16-228-1260	NEW-XA	99-15-033	16-228-410	REP-XA	99-15-033
16-200-695	AMD-P	99-04-093	16-228-1270	NEW-XA	99-15-033	16-228-420	REP-XA	99-15-033
16-200-695	AMD	99-08-037	16-228-130	REP-XA	99-15-033	16-228-430	REP-XA	99-15-033
16-200-705	AMD-P	99-04-093	16-228-1300	NEW-XA	99-15-033	16-228-600	REP-XA	99-15-033
16-200-705	AMD	99-08-037	16-228-1320	NEW-XA	99-15-033	16-228-650	REP-XA	99-15-033
16-200-7061	AMD-P	99-04-093	16-228-1330	NEW-XA	99-15-033	16-228-655	REP-XA	99-15-033
16-200-7061	AMD	99-08-037	16-228-1370	NEW-XA	99-15-033	16-228-660	REP-XA	99-15-033
16-200-742	REP-XA	99-15-033	16-228-1380	NEW-XA	99-15-033	16-228-905	REP-XA	99-15-033
16-200-750	AMD-P	99-13-164	16-228-1385	NEW-XA	99-15-033	16-228-910	REP-XA	99-15-033
16-200-750	AMD	99-17-043	16-228-140	REP-XA	99-15-033	16-228-915	REP-XA	99-15-033
16-200-755	AMD-P	99-13-164	16-228-1400	NEW-XA	99-15-033	16-228-920	REP-XA	99-15-033
16-200-755	AMD	99-17-043	16-228-1410	NEW-XA	99-15-033	16-228-925	REP-XA	99-15-033
16-200-760	AMD-P	99-13-164	16-228-1420	NEW-XA	99-15-033	16-228-930	REP-XA	99-15-033
16-200-760	AMD	99-17-043	16-228-143	REP-XA	99-15-033	16-230	PREP	99-07-087
16-200-790	AMD-P	99-13-164	16-228-1430	NEW-XA	99-15-033	16-230-150	PREP	99-13-163
16-200-790	AMD	99-17-043	16-228-1440	NEW-XA	99-15-033	16-230-160	PREP	99-13-163
16-200-795	AMD-P	99-13-164	16-228-145	REP-XA	99-15-033	16-230-170	PREP	99-13-163
16-200-795	AMD	99-17-043	16-228-1450	NEW-XA	99-15-033	16-230-180	PREP	99-13-163
16-200-815	AMD-P	99-13-164	16-228-14501	REP-XA	99-15-033	16-230-190	PREP	99-13-163
16-200-815	AMD	99-17-043	16-228-1455	NEW-XA	99-15-033	16-230-400	PREP	99-13-162
16-200-830	AMD-P	99-13-164	16-228-1460	NEW-XA	99-15-033	16-230-410	PREP	99-13-162
16-200-830	AMD	99-17-043	16-228-1500	NEW-XA	99-15-033	16-230-420	PREP	99-13-162
16-202-1000	NEW-XA	99-15-033	16-228-1520	NEW-XA	99-15-033	16-230-430	PREP	99-13-162
16-202-2000	NEW-XA	99-15-033	16-228-1530	NEW-XA	99-15-033	16-230-440	PREP	99-13-162
16-212	PREP	99-07-132	16-228-1540	NEW-XA	99-15-033	16-230-450	PREP	99-13-162
16-212	AMD-P	99-11-095	16-228-155	REP-XA	99-15-033	16-230-460	PREP	99-13-162
16-212	AMD	99-15-082	16-228-1550	NEW-XA	99-15-033	16-230-470	PREP	99-13-162
16-212-010	AMD-P	99-11-095	16-228-1555	NEW-XA	99-15-033	16-231-200	PREP	99-13-162
16-212-010	AMD	99-15-082	16-228-157	REP-XA	99-15-033	16-231-205	PREP	99-13-162
16-212-030	AMD-P	99-11-095	16-228-1570	NEW-XA	99-15-033	16-231-210	PREP	99-13-162
16-212-030	AMD	99-15-082	16-228-1580	NEW-XA	99-15-033	16-231-215	PREP	99-13-162
16-212-060	AMD-P	99-11-095	16-228-1585	NEW-XA	99-15-033	16-231-220	PREP	99-13-162
16-212-060	AMD	99-15-082	16-228-1590	NEW-XA	99-15-033	16-231-225	PREP	99-13-162
16-212-070	AMD-P	99-11-095	16-228-160	REP-XA	99-15-033	16-231-230	PREP	99-13-162
16-212-070	AMD	99-15-082	16-228-161	REP-XA	99-15-033	16-231-235	PREP	99-13-162
16-212-080	AMD-P	99-11-095	16-228-162	REP-XA	99-15-033	16-231-300	PREP	99-13-162
16-212-080	AMD	99-15-082	16-228-164	REP-XA	99-15-033	16-231-305	PREP	99-13-162
16-212-082	AMD-P	99-11-095	16-228-166	REP-XA	99-15-033	16-231-310	PREP	99-13-162
16-212-082	AMD	99-15-082	16-228-168	REP-XA	99-15-033	16-231-315	PREP	99-13-162
16-218	PREP	99-17-106	16-228-170	REP-XA	99-15-033	16-231-320	PREP	99-13-162
16-219-010	PREP	99-07-088	16-228-172	REP-XA	99-15-033	16-231-325	PREP	99-13-162
16-219-016	PREP	99-07-086	16-228-180	REP-XA	99-15-033	16-231-330	PREP	99-13-162
16-219-100	PREP	99-07-111	16-228-185	REP-XA	99-15-033	16-231-335	PREP	99-13-162
16-219-105	PREP	99-07-111	16-228-190	REP-XA	99-15-033	16-231-340	PREP	99-13-162
16-228	AMD-XA	99-15-033	16-228-195	REP-XA	99-15-033	16-231-400	PREP	99-13-162
16-228-010	REP-XA	99-15-033	16-228-2000	NEW-XA	99-15-033	16-231-405	PREP	99-13-162
16-228-020	REP-XA	99-15-033	16-228-2020	NEW-XA	99-15-033	16-231-410	PREP	99-13-162
16-228-1010	NEW-XA	99-15-033	16-228-2030	NEW-XA	99-15-033	16-231-413	PREP	99-13-162
16-228-1020	NEW-XA	99-15-033	16-228-2040	NEW-XA	99-15-033	16-231-415	PREP	99-13-162
16-228-1030	NEW-XA	99-15-033	16-228-210	REP-XA	99-15-033	16-231-420	PREP	99-13-162
16-228-1040	NEW-XA	99-15-033	16-228-213	REP-XA	99-15-033	16-231-425	PREP	99-13-162
16-228-1100	NEW-XA	99-15-033	16-228-214	REP-XA	99-15-033	16-231-500	PREP	99-13-162

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-231-505	PREP	99-13-162	16-319-041	AMD-P	99-13-185	16-451-040	REP-XR	99-08-112
16-231-510	PREP	99-13-162	16-322	PREP	99-03-093	16-451-040	REP	99-17-001
16-231-515	PREP	99-13-162	16-401	PREP	99-03-095	16-451-050	REP-XR	99-08-112
16-231-520	PREP	99-13-162	16-401-019	AMD-P	99-07-126	16-451-050	REP	99-17-001
16-231-525	PREP	99-13-162	16-401-019	AMD	99-12-034	16-451-060	REP-XR	99-08-112
16-231-530	PREP	99-13-162	16-401-020	AMD-P	99-07-126	16-451-060	REP	99-17-001
16-231-600	PREP	99-13-162	16-401-020	AMD	99-12-034	16-451-070	REP-XR	99-08-112
16-231-605	PREP	99-13-162	16-401-021	NEW-P	99-07-126	16-451-070	REP	99-17-001
16-231-610	PREP	99-13-162	16-401-021	NEW	99-12-034	16-458	AMD-XA	99-08-113
16-231-613	PREP	99-13-162	16-401-023	AMD-P	99-07-126	16-458	AMD	99-17-002
16-231-615	PREP	99-13-162	16-401-023	AMD	99-12-034	16-458-004	REP-XA	99-08-113
16-231-620	PREP	99-13-162	16-401-025	AMD-P	99-07-126	16-458-004	REP	99-17-002
16-231-700	PREP	99-13-162	16-401-025	AMD	99-12-034	16-458-075	AMD-XA	99-08-113
16-231-705	PREP	99-13-162	16-401-026	NEW-P	99-07-126	16-458-075	AMD	99-17-002
16-231-710	PREP	99-13-162	16-401-026	NEW	99-12-034	16-458-080	AMD-XA	99-08-113
16-231-715	PREP	99-13-162	16-401-030	AMD-P	99-07-126	16-458-080	AMD	99-17-002
16-231-720	PREP	99-13-162	16-401-030	AMD	99-12-034	16-458-085	AMD-XA	99-08-113
16-231-800	PREP	99-13-162	16-401-031	NEW-P	99-07-126	16-458-085	AMD	99-17-002
16-231-805	PREP	99-13-162	16-401-031	NEW	99-12-034	16-460-005	REP-XR	99-08-112
16-231-810	PREP	99-13-162	16-401-040	AMD-P	99-07-126	16-460-005	REP	99-17-001
16-231-815	PREP	99-13-162	16-401-040	AMD	99-12-034	16-460-008	REP-XR	99-08-112
16-231-820	PREP	99-13-162	16-401-041	NEW-P	99-07-126	16-460-008	REP	99-17-001
16-231-825	PREP	99-13-162	16-401-041	NEW	99-12-034	16-460-040	REP-XR	99-08-112
16-231-830	PREP	99-13-162	16-401-050	AMD-P	99-07-126	16-460-040	REP	99-17-001
16-231-835	PREP	99-13-162	16-401-050	AMD	99-12-034	16-460-080	REP-XR	99-08-112
16-231-840	PREP	99-13-162	16-403	PREP	99-03-108	16-460-080	REP	99-17-001
16-231-900	PREP	99-13-162	16-403-141	AMD-P	99-11-096	16-460-100	REP-XR	99-08-112
16-231-905	PREP	99-13-162	16-403-141	AMD	99-14-036	16-460-100	REP	99-17-001
16-231-910	PREP	99-13-162	16-406-001	PREP	99-04-094	16-461	PREP	99-03-108
16-231-912	PREP	99-13-162	16-406-020	PREP	99-04-094	16-461-010	AMD-P	99-11-096
16-231-915	PREP	99-13-162	16-406-020	AMD-P	99-08-108	16-461-010	AMD	99-14-036
16-231-920	PREP	99-13-162	16-406-020	AMD	99-17-003	16-462	PREP	99-03-094
16-231-925	PREP	99-13-162	16-406-025	NEW-P	99-08-108	16-462	AMD-XA	99-07-127
16-231-930	PREP	99-13-162	16-406-025	NEW	99-17-003	16-462-010	AMD-XA	99-07-127
16-231-935	PREP	99-13-162	16-406-030	PREP	99-04-094	16-462-010	AMD	99-12-025
16-232-001	PREP	99-13-162	16-406-030	AMD-P	99-08-108	16-462-015	AMD-XA	99-07-127
16-232-005	PREP	99-13-162	16-406-030	AMD	99-17-003	16-462-015	AMD	99-12-025
16-232-010	PREP	99-13-162	16-406-050	PREP	99-04-094	16-462-020	AMD-XA	99-07-127
16-232-015	PREP	99-13-162	16-406-050	AMD-P	99-08-108	16-462-020	AMD	99-12-025
16-232-020	PREP	99-13-162	16-406-050	AMD	99-17-003	16-462-021	NEW-XA	99-07-127
16-232-025	PREP	99-13-162	16-412-010	REP-XR	99-08-112	16-462-021	NEW	99-12-025
16-232-027	PREP	99-13-162	16-412-010	REP	99-17-001	16-462-022	NEW-XA	99-07-127
16-232-030	PREP	99-13-162	16-412-020	REP-XR	99-08-112	16-462-022	NEW	99-12-025
16-232-035	PREP	99-13-162	16-412-020	REP	99-17-001	16-462-025	AMD-XA	99-07-127
16-232-038	PREP	99-13-162	16-412-030	REP-XR	99-08-112	16-462-025	AMD	99-12-025
16-232-100	PREP	99-13-162	16-412-030	REP	99-17-001	16-462-030	AMD-XA	99-07-127
16-232-105	PREP	99-13-162	16-412-040	REP-XR	99-08-112	16-462-030	AMD	99-12-025
16-232-110	PREP	99-13-162	16-412-040	REP	99-17-001	16-462-035	AMD-XA	99-07-127
16-232-115	PREP	99-13-162	16-412-050	REP-XR	99-08-112	16-462-035	AMD	99-12-025
16-232-120	PREP	99-13-162	16-412-050	REP	99-17-001	16-462-045	REP-XA	99-07-127
16-232-200	PREP	99-13-162	16-412-060	REP-XR	99-08-112	16-462-045	REP	99-12-025
16-232-205	PREP	99-13-162	16-412-060	REP	99-17-001	16-462-050	AMD-XA	99-07-127
16-232-210	PREP	99-13-162	16-424-010	REP-XR	99-08-112	16-462-050	AMD	99-12-025
16-232-215	PREP	99-13-162	16-424-010	REP	99-17-001	16-462-055	AMD-XA	99-07-127
16-232-220	PREP	99-13-162	16-424-020	REP-XR	99-08-112	16-462-055	AMD	99-12-025
16-232-225	PREP	99-13-162	16-424-020	REP	99-17-001	16-462-060	REP-XA	99-07-127
16-232-300	PREP	99-13-162	16-424-030	REP-XR	99-08-112	16-462-060	REP	99-12-025
16-232-305	PREP	99-13-162	16-424-030	REP	99-17-001	16-470	PREP	99-03-092
16-232-310	PREP	99-13-162	16-436	PREP	99-08-111	16-470-900	PREP	99-03-096
16-232-315	PREP	99-13-162	16-448	PREP	99-08-110	16-470-900	AMD-P	99-07-125
16-316-474	PREP	99-04-096	16-449-010	AMD-P	99-17-078	16-470-900	AMD	99-12-035
16-316-474	AMD-P	99-13-184	16-451-010	REP-XR	99-08-112	16-470-905	PREP	99-03-096
16-316-717	PREP	99-04-096	16-451-010	REP	99-17-001	16-470-905	AMD-P	99-07-125
16-316-717	AMD-P	99-13-184	16-451-020	REP-XR	99-08-112	16-470-905	AMD	99-12-035
16-316-727	PREP	99-04-096	16-451-020	REP	99-17-001	16-470-910	PREP	99-03-096
16-316-727	AMD-P	99-13-184	16-451-030	REP-XR	99-08-112	16-470-910	AMD-P	99-07-125
16-319-041	PREP	99-04-095	16-451-030	REP	99-17-001	16-470-910	AMD	99-12-035

Table

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16-470-911	NEW-P	99-07-125	16-752-145	REP	99-11-087	50- 16-060	REP-XR	99-04-073
16-470-911	NEW	99-12-035	16-752-146	REP-XR	99-07-124	50- 16-060	REP	99-08-123
16-470-915	PREP	99-03-096	16-752-146	REP	99-11-087	50- 16-065	REP-XR	99-04-073
16-470-915	AMD-P	99-07-125	16-752-147	REP-XR	99-07-124	50- 16-065	REP	99-08-123
16-470-915	AMD	99-12-035	16-752-147	REP	99-11-087	50- 16-070	REP-XR	99-04-073
16-470-916	NEW-P	99-07-125	16-752-150	REP-XR	99-07-124	50- 16-070	REP	99-08-123
16-470-916	NEW	99-12-035	16-752-150	REP	99-11-087	50- 16-075	REP-XR	99-04-073
16-470-920	PREP	99-03-096	16-752-155	REP-XR	99-07-124	50- 16-075	REP	99-08-123
16-470-920	AMD-P	99-07-125	16-752-155	REP	99-11-087	50- 16-080	REP-XR	99-04-073
16-470-920	AMD	99-12-035	16-752-160	REP-XR	99-07-124	50- 16-080	REP	99-08-123
16-470-921	NEW-P	99-07-125	16-752-160	REP	99-11-087	50- 16-085	REP-XR	99-04-073
16-470-921	NEW	99-12-035	16-752-165	REP-XR	99-07-124	50- 16-085	REP	99-08-123
16-481	PREP	99-03-090	16-752-165	REP	99-11-087	50- 16-090	REP-XR	99-04-073
16-483	PREP	99-03-091	16-752-170	REP-XR	99-07-124	50- 16-090	REP	99-08-123
16-532-020	AMD-P	99-02-063	16-752-170	REP	99-11-087	50- 16-095	REP-XR	99-04-073
16-532-020	AMD	99-10-095	25- 12-010	REP-P	99-03-098	50- 16-095	REP	99-08-123
16-545-010	NEW	99-02-064	25- 12-010	REP-W	99-16-074	50- 16-100	REP-XR	99-04-073
16-545-015	NEW	99-02-064	25- 12-020	REP-P	99-03-098	50- 16-100	REP	99-08-123
16-545-020	NEW	99-02-064	25- 12-020	REP-W	99-16-074	50- 16-105	REP-XR	99-04-073
16-545-030	NEW	99-02-064	25- 12-030	REP-P	99-03-098	50- 16-105	REP	99-08-123
16-545-040	NEW	99-02-064	25- 12-030	REP-W	99-16-074	50- 44-037	NEW-P	99-07-131
16-545-041	NEW	99-02-064	25- 12-040	REP-P	99-03-098	50- 44-037	NEW	99-10-024
16-545-050	NEW	99-02-064	25- 12-040	REP-W	99-16-074	50- 44-039	NEW-P	99-07-131
16-545-080	NEW	99-02-064	25- 12-050	REP-P	99-03-098	50- 44-039	NEW	99-10-024
16-561-010	AMD-P	99-07-108	25- 12-050	REP-W	99-16-074	51- 40-23110	REP-E	99-05-030
16-561-010	AMD-C	99-11-024	25- 12-060	REP-P	99-03-098	67- 55-040	AMD	99-05-005
16-561-010	AMD-C	99-12-013	25- 12-060	REP-W	99-16-074	67- 55-060	AMD	99-05-005
16-561-010	AMD-W	99-13-142	25- 12-070	REP-P	99-03-098	67- 75-010	AMD	99-05-005
16-561-130	NEW-P	99-07-108	25- 12-070	REP-W	99-16-074	67- 75-020	AMD	99-05-005
16-561-130	NEW-C	99-11-024	25- 12-110	NEW-P	99-03-098	67- 75-030	AMD	99-05-005
16-561-130	NEW-C	99-12-013	25- 12-110	NEW-W	99-16-074	67- 75-040	AMD	99-05-005
16-561-130	NEW-W	99-13-142	25- 12-120	NEW-P	99-03-098	67- 75-042	AMD	99-05-005
16-575-015	NEW-P	99-06-070	25- 12-120	NEW-W	99-16-074	67- 75-044	AMD	99-05-005
16-575-015	NEW	99-12-104	25- 12-130	NEW-P	99-03-098	67- 75-050	AMD	99-05-005
16-604-010	REP	99-04-069	25- 12-130	NEW-W	99-16-074	82- 50-021	AMD-XA	99-07-128
16-607-150	NEW-P	99-16-100	25- 12-140	NEW-P	99-03-098	82- 50-021	AMD	99-12-081
16-607-155	NEW-P	99-16-100	25- 12-140	NEW-W	99-16-074	98- 70-010	PREP	99-10-017
16-607-160	NEW-P	99-16-100	25- 12-150	NEW-P	99-03-098	98- 70-010	AMD-P	99-13-137
16-607-165	NEW-P	99-16-100	25- 12-150	NEW-W	99-16-074	98- 70-010	AMD	99-16-079
16-607-170	NEW-P	99-16-100	25- 12-160	NEW-P	99-03-098	130- 16	PREP	99-08-060
16-645-005	NEW-P	99-02-066	25- 12-160	NEW-W	99-16-074	131- 16-021	PREP	99-09-017
16-645-005	NEW	99-06-072	25- 12-170	NEW-P	99-03-098	131- 16-021	AMD-P	99-13-043
16-645-010	NEW-P	99-02-066	25- 12-170	NEW-W	99-16-074	131- 16-021	AMD-E	99-13-186
16-645-010	NEW	99-06-072	25- 12-180	NEW-P	99-03-098	131- 16-021	AMD-P	99-14-019
16-662-105	AMD-P	99-04-111	25- 12-180	NEW-W	99-16-074	131- 16-021	AMD-P	99-14-052
16-662-105	AMD	99-07-056	36- 12	PREP	99-12-103	131- 16-450	PREP	99-04-029
16-662-110	AMD-P	99-04-111	36- 12-364	NEW-P	99-13-127	131- 16-450	AMD-E	99-07-057
16-662-110	AMD	99-07-056	36- 12-364	NEW	99-17-048	131- 16-450	AMD-P	99-08-013
16-720	PREP	99-13-178	36- 14-100	NEW-P	99-13-127	131- 16-450	AMD	99-13-013
16-720	PREP	99-16-089	36- 14-100	NEW	99-17-048	131- 28	PREP	99-10-015
16-750	PREP	99-13-039	44- 10	PREP	99-15-079	131- 46	PREP	99-08-057
16-752	PREP	99-07-123	50- 16-020	REP-XR	99-04-073	131- 46-140	NEW-P	99-14-018
16-752	PREP	99-17-104	50- 16-020	REP	99-08-123	131- 46-140	NEW-E	99-14-020
16-752	PREP	99-17-105	50- 16-025	REP-XR	99-04-073	132A	PREP	99-07-060
16-752-115	REP-XR	99-07-124	50- 16-025	REP	99-08-123	132A-104-010	REP-XR	99-16-028
16-752-115	REP	99-11-087	50- 16-030	REP-XR	99-04-073	132A-104-011	NEW-P	99-10-100
16-752-120	REP-XR	99-07-124	50- 16-030	REP	99-08-123	132A-104-011	NEW	99-15-072
16-752-120	REP	99-11-087	50- 16-035	REP-XR	99-04-073	132A-104-015	REP-XR	99-16-028
16-752-125	REP-XR	99-07-124	50- 16-035	REP	99-08-123	132A-104-016	NEW-P	99-10-100
16-752-125	REP	99-11-087	50- 16-040	REP-XR	99-04-073	132A-104-016	NEW	99-15-072
16-752-130	REP-XR	99-07-124	50- 16-040	REP	99-08-123	132A-104-020	REP-XR	99-16-028
16-752-130	REP	99-11-087	50- 16-045	REP-XR	99-04-073	132A-104-021	NEW-P	99-10-100
16-752-135	REP-XR	99-07-124	50- 16-045	REP	99-08-123	132A-104-021	NEW	99-15-072
16-752-135	REP	99-11-087	50- 16-050	REP-XR	99-04-073	132A-108-010	NEW-P	99-10-100
16-752-140	REP-XR	99-07-124	50- 16-050	REP	99-08-123	132A-108-010	NEW	99-15-072
16-752-140	REP	99-11-087	50- 16-055	REP-XR	99-04-073	132A-108-020	NEW-P	99-10-100
16-752-145	REP-XR	99-07-124	50- 16-055	REP	99-08-123	132A-108-020	NEW	99-15-072

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132A-108-030	NEW-P	99-10-100	132A-120-060	REP-XR	99-16-028	132A-150-020	NEW-P	99-10-100
132A-108-030	NEW	99-15-072	132A-120-061	NEW-P	99-10-100	132A-150-020	NEW	99-15-072
132A-108-040	NEW-P	99-10-100	132A-120-061	NEW	99-15-072	132A-156-005	REP-XR	99-16-028
132A-108-040	NEW	99-15-072	132A-122-010	REP-XR	99-16-028	132A-156-006	NEW-P	99-10-100
132A-108-050	NEW-P	99-10-100	132A-122-011	NEW-P	99-10-100	132A-156-006	NEW	99-15-072
132A-108-050	NEW	99-15-072	132A-122-011	NEW	99-15-072	132A-156-010	REP-XR	99-16-028
132A-108-060	NEW-P	99-10-100	132A-122-020	REP-XR	99-16-028	132A-156-011	NEW-P	99-10-100
132A-108-060	NEW	99-15-072	132A-122-021	NEW-P	99-10-100	132A-156-011	NEW	99-15-072
132A-108-070	NEW-P	99-10-100	132A-122-021	NEW	99-15-072	132A-156-015	REP-XR	99-16-028
132A-108-070	NEW	99-15-072	132A-122-030	REP-XR	99-16-028	132A-156-016	NEW-P	99-10-100
132A-108-080	NEW-P	99-10-100	132A-122-040	REP-XR	99-16-028	132A-156-016	NEW	99-15-072
132A-108-080	NEW	99-15-072	132A-122-050	REP-XR	99-16-028	132A-156-020	REP-XR	99-16-028
132A-108-090	NEW-P	99-10-100	132A-128-005	REP-XR	99-16-028	132A-156-025	REP-XR	99-16-028
132A-108-090	NEW	99-15-072	132A-128-010	REP-XR	99-16-028	132A-156-030	REP-XR	99-16-028
132A-116-001	NEW-P	99-10-100	132A-128-015	REP-XR	99-16-028	132A-160-005	REP-XR	99-16-028
132A-116-001	NEW	99-15-072	132A-128-020	REP-XR	99-16-028	132A-160-006	NEW-P	99-10-100
132A-116-005	REP-XR	99-16-028	132A-128-025	REP-XR	99-16-028	132A-160-006	NEW	99-16-029
132A-116-006	NEW-P	99-10-100	132A-128-030	REP-XR	99-16-028	132A-160-015	REP-XR	99-16-028
132A-116-006	NEW	99-15-072	132A-128-035	REP-XR	99-16-028	132A-160-020	REP-XR	99-16-028
132A-116-010	REP-XR	99-16-028	132A-128-040	REP-XR	99-16-028	132A-165-005	REP-XR	99-16-028
132A-116-011	NEW-P	99-10-100	132A-128-045	REP-XR	99-16-028	132A-165-015	REP-XR	99-16-028
132A-116-011	NEW	99-15-072	132A-128-050	REP-XR	99-16-028	132A-165-025	REP-XR	99-16-028
132A-116-015	REP-XR	99-16-028	132A-128-060	REP-XR	99-16-028	132A-165-035	REP-XR	99-16-028
132A-116-016	NEW-P	99-10-100	132A-128-070	REP-XR	99-16-028	132A-165-045	REP-XR	99-16-028
132A-116-016	NEW	99-15-072	132A-128-080	REP-XR	99-16-028	132A-165-055	REP-XR	99-16-028
132A-116-020	REP-XR	99-16-028	132A-128-090	REP-XR	99-16-028	132A-165-065	REP-XR	99-16-028
132A-116-021	NEW-P	99-10-100	132A-128-100	REP-XR	99-16-028	132A-165-075	REP-XR	99-16-028
132A-116-021	NEW	99-15-072	132A-130-010	NEW-P	99-10-100	132A-165-085	REP-XR	99-16-028
132A-116-025	REP-XR	99-16-028	132A-130-010	NEW	99-15-072	132A-168-005	REP-XR	99-16-028
132A-116-026	NEW-P	99-10-100	132A-130-020	NEW-P	99-10-100	132A-168-006	NEW-P	99-10-100
132A-116-026	NEW	99-15-072	132A-130-020	NEW	99-15-072	132A-168-006	NEW	99-15-072
132A-116-030	NEW-P	99-10-100	132A-130-030	NEW-P	99-10-100	132A-168-010	REP-XR	99-16-028
132A-116-030	NEW	99-15-072	132A-130-030	NEW	99-15-072	132A-168-011	NEW-P	99-10-100
132A-120	AMD	99-15-072	132A-131-010	NEW-P	99-10-100	132A-168-011	NEW	99-15-072
132A-120-005	REP-XR	99-16-028	132A-131-010	NEW	99-15-072	132A-168-015	REP-XR	99-16-028
132A-120-006	NEW-P	99-10-100	132A-131-020	NEW-P	99-10-100	132A-168-016	NEW-P	99-10-100
132A-120-006	NEW	99-15-072	132A-131-020	NEW	99-15-072	132A-168-016	NEW	99-15-072
132A-120-010	REP-XR	99-16-028	132A-133-020	NEW-P	99-10-100	132A-168-021	NEW-P	99-10-100
132A-120-011	NEW-P	99-10-100	132A-133-020	NEW	99-15-072	132A-168-021	NEW	99-15-072
132A-120-011	NEW	99-15-072	132A-136-005	REP-XR	99-16-028	132A-168-026	NEW-P	99-10-100
132A-120-015	REP-XR	99-16-028	132A-136-010	REP-XR	99-16-028	132A-168-026	NEW	99-15-072
132A-120-016	NEW-P	99-10-100	132A-136-015	REP-XR	99-16-028	132A-176-005	REP-XR	99-16-028
132A-120-016	NEW	99-15-072	132A-136-020	REP-XR	99-16-028	132A-176-006	NEW-P	99-10-100
132A-120-020	REP-XR	99-16-028	132A-136-025	REP-XR	99-16-028	132A-176-006	NEW	99-15-072
132A-120-021	NEW-P	99-10-100	132A-136-030	REP-XR	99-16-028	132A-180-005	REP-XR	99-16-028
132A-120-021	NEW	99-15-072	132A-140	AMD	99-15-072	132A-180-010	REP-XR	99-16-028
132A-120-025	REP-XR	99-16-028	132A-140-001	NEW-P	99-10-100	132A-180-015	REP-XR	99-16-028
132A-120-026	NEW-P	99-10-100	132A-140-001	NEW	99-15-072	132A-180-020	REP-XR	99-16-028
132A-120-026	NEW	99-15-072	132A-140-005	REP-XR	99-16-028	132A-180-025	REP-XR	99-16-028
132A-120-030	REP-XR	99-16-028	132A-140-006	NEW-P	99-10-100	132A-180-030	REP-XR	99-16-028
132A-120-031	NEW-P	99-10-100	132A-140-006	NEW	99-15-072	132A-180-035	REP-XR	99-16-028
132A-120-031	NEW	99-15-072	132A-140-010	REP-XR	99-16-028	132A-180-040	REP-XR	99-16-028
132A-120-035	REP-XR	99-16-028	132A-140-011	NEW-P	99-10-100	132A-276-005	REP-XR	99-16-028
132A-120-036	NEW-P	99-10-100	132A-140-011	NEW	99-15-072	132A-276-010	REP-XR	99-16-028
132A-120-036	NEW	99-15-072	132A-140-015	REP-XR	99-16-028	132A-276-015	REP-XR	99-16-028
132A-120-040	REP-XR	99-16-028	132A-140-016	NEW-P	99-10-100	132A-276-020	REP-XR	99-16-028
132A-120-041	NEW-P	99-10-100	132A-140-016	NEW	99-15-072	132A-276-025	REP-XR	99-16-028
132A-120-041	NEW	99-15-072	132A-140-020	REP-XR	99-16-028	132A-276-030	REP-XR	99-16-028
132A-120-045	REP-XR	99-16-028	132A-140-021	NEW-P	99-10-100	132A-276-031	NEW-P	99-10-100
132A-120-046	NEW-P	99-10-100	132A-140-021	NEW	99-15-072	132A-276-031	NEW	99-15-072
132A-120-046	NEW	99-15-072	132A-140-025	REP-XR	99-16-028	132A-276-035	REP-XR	99-16-028
132A-120-050	REP-XR	99-16-028	132A-140-026	NEW-P	99-10-100	132A-276-040	REP-XR	99-16-028
132A-120-051	NEW-P	99-10-100	132A-140-026	NEW	99-15-072	132A-276-045	AMD-P	99-10-100
132A-120-051	NEW	99-15-072	132A-140-030	NEW-P	99-10-100	132A-276-045	AMD	99-15-072
132A-120-055	REP-XR	99-16-028	132A-140-030	NEW	99-15-072	132A-276-050	REP-XR	99-16-028
132A-120-056	NEW-P	99-10-100	132A-150-010	NEW-P	99-10-100	132A-276-055	REP-XR	99-16-028
132A-120-056	NEW	99-15-072	132A-150-010	NEW	99-15-072	132A-276-060	REP-XR	99-16-028



Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132A-276-065	REP-XR	99-16-028	132H-168-030	REP-P	99-05-018	132K-16-130	REP-P	99-07-109
132A-276-070	REP-XR	99-16-028	132H-168-030	REP	99-10-045	132K-16-130	REP	99-10-046
132A-280-005	REP-XR	99-16-028	132H-168-040	REP-P	99-05-018	132K-16-140	REP-P	99-07-109
132A-280-006	NEW-P	99-10-100	132H-168-040	REP	99-10-045	132K-16-140	REP	99-10-046
132A-280-006	NEW	99-15-072	132H-168-050	REP-P	99-05-018	132K-16-150	REP-P	99-07-109
132A-280-010	REP-XR	99-16-028	132H-168-050	REP	99-10-045	132K-16-150	REP	99-10-046
132A-280-011	NEW-P	99-10-100	132H-168-060	REP-P	99-05-018	132K-16-160	REP-P	99-07-109
132A-280-011	NEW	99-15-072	132H-168-060	REP	99-10-045	132K-16-160	REP	99-10-046
132A-280-015	REP-XR	99-16-028	132H-168-070	REP-P	99-05-018	132K-16-170	REP-P	99-07-109
132A-280-016	NEW-P	99-10-100	132H-168-070	REP	99-10-045	132K-16-170	REP	99-10-046
132A-280-016	NEW	99-15-072	132H-168-080	REP-P	99-05-018	132K-16-180	REP-P	99-07-109
132A-280-020	REP-XR	99-16-028	132H-168-080	REP	99-10-045	132K-16-180	REP	99-10-046
132A-280-021	NEW-P	99-10-100	132H-168-090	REP-P	99-05-018	132K-16-190	REP-P	99-07-109
132A-280-021	NEW	99-15-072	132H-168-090	REP	99-10-045	132K-16-190	REP	99-10-046
132A-280-026	NEW-P	99-10-100	132H-168-990	REP-P	99-05-018	132K-16-200	REP-P	99-07-109
132A-280-026	NEW	99-15-072	132H-168-990	REP	99-10-045	132K-16-200	REP	99-10-046
132A-280-030	REP-XR	99-16-028	132H-168-9901	REP-P	99-05-018	132K-16-210	REP-P	99-07-109
132A-280-031	NEW-P	99-10-100	132H-168-9901	REP	99-10-045	132K-16-210	REP	99-10-046
132A-280-031	NEW	99-15-072	132H-168-9902	REP-P	99-05-018	132K-16-220	REP-P	99-07-109
132A-280-035	NEW-P	99-10-100	132H-168-9902	REP	99-10-045	132K-16-220	REP	99-10-046
132A-280-035	NEW	99-15-072	132H-168-9903	REP-P	99-05-018	132K-16-230	REP-P	99-07-109
132A-280-040	NEW-P	99-10-100	132H-168-9903	REP	99-10-045	132K-16-230	REP	99-10-046
132A-280-040	NEW	99-15-072	132H-169-010	NEW-P	99-05-018	132K-16-240	REP-P	99-07-109
132A-280-045	NEW-P	99-10-100	132H-169-010	NEW	99-10-045	132K-16-240	REP	99-10-046
132A-280-045	NEW	99-15-072	132H-169-020	NEW-P	99-05-018	132K-16-250	REP-P	99-07-109
132A-280-050	NEW-P	99-10-100	132H-169-020	NEW	99-10-045	132K-16-250	REP	99-10-046
132A-280-050	NEW	99-15-072	132H-169-030	NEW-P	99-05-018	132K-16-260	REP-P	99-07-109
132A-280-055	NEW-P	99-10-100	132H-169-030	NEW	99-10-045	132K-16-260	REP	99-10-046
132A-280-055	NEW	99-15-072	132H-169-040	NEW-P	99-05-018	132K-16-270	REP-P	99-07-109
132A-280-060	NEW-P	99-10-100	132H-169-040	NEW	99-10-045	132K-16-270	REP	99-10-046
132A-280-060	NEW	99-15-072	132H-169-050	NEW-P	99-05-018	132K-16-280	REP-P	99-07-109
132A-280-065	NEW-P	99-10-100	132H-169-050	NEW	99-10-045	132K-16-280	REP	99-10-046
132A-280-065	NEW	99-15-072	132H-169-060	NEW-P	99-05-018	132K-16-290	REP-P	99-07-109
132A-280-070	NEW-P	99-10-100	132H-169-060	NEW	99-10-045	132K-16-290	REP	99-10-046
132A-280-070	NEW	99-15-072	132H-169-070	NEW-P	99-05-018	132K-16-300	REP-P	99-07-109
132A-280-075	NEW-P	99-10-100	132H-169-070	NEW	99-10-045	132K-16-300	REP	99-10-046
132A-280-075	NEW	99-15-072	132H-169-080	NEW-P	99-05-018	132K-16-310	REP-P	99-07-109
132A-280-080	NEW-P	99-10-100	132H-169-080	NEW	99-10-045	132K-16-310	REP	99-10-046
132A-280-080	NEW	99-15-072	132H-169-090	NEW-P	99-05-018	132K-16-320	REP-P	99-07-109
132A-280-085	NEW-P	99-10-100	132H-169-090	NEW	99-10-045	132K-16-320	REP	99-10-046
132A-280-085	NEW	99-15-072	132H-169-100	NEW-P	99-05-018	132K-16-330	REP-P	99-07-109
132A-300-005	REP-XR	99-16-028	132H-169-100	NEW	99-10-045	132K-16-330	REP	99-10-046
132A-300-010	REP-XR	99-16-028	132H-169-110	NEW-P	99-05-018	132K-16-340	REP-P	99-07-109
132A-310-005	REP-XR	99-16-028	132H-169-110	NEW	99-10-045	132K-16-340	REP	99-10-046
132A-310-010	REP-XR	99-16-028	132H-169-120	NEW-P	99-05-018	132K-16-350	REP-P	99-07-109
132A-320-010	NEW-P	99-10-100	132H-169-120	NEW	99-10-045	132K-16-350	REP	99-10-046
132A-320-010	NEW	99-15-072	132H-169-130	NEW-P	99-05-018	132K-16-360	REP-P	99-07-109
132A-320-020	NEW-P	99-10-100	132H-169-130	NEW	99-10-045	132K-16-360	REP	99-10-046
132A-320-020	NEW	99-15-072	132K-16	PREP	99-04-028	132K-16-370	REP-P	99-07-109
132A-320-030	NEW-P	99-10-100	132K-16-010	REP-P	99-07-109	132K-16-370	REP	99-10-046
132A-320-030	NEW	99-15-072	132K-16-010	REP	99-10-046	132K-16-380	REP-P	99-07-109
132A-350-015	NEW-P	99-10-100	132K-16-020	REP-P	99-07-109	132K-16-380	REP	99-10-046
132A-350-015	NEW	99-15-072	132K-16-020	REP	99-10-046	132K-16-390	REP-P	99-07-109
132A-350-020	NEW-P	99-10-100	132K-16-030	REP-P	99-07-109	132K-16-390	REP	99-10-046
132A-350-020	NEW	99-15-072	132K-16-030	REP	99-10-046	132K-16-400	REP-P	99-07-109
132A-350-030	NEW-P	99-10-100	132K-16-040	REP-P	99-07-109	132K-16-400	REP	99-10-046
132A-350-030	NEW	99-15-072	132K-16-040	REP	99-10-046	132K-16-410	REP-P	99-07-109
132A-350-040	NEW-P	99-10-100	132K-16-050	REP-P	99-07-109	132K-16-410	REP	99-10-046
132A-350-040	NEW	99-15-072	132K-16-050	REP	99-10-046	132K-16-420	REP-P	99-07-109
132A-350-045	NEW-P	99-10-100	132K-16-060	REP-P	99-07-109	132K-16-420	REP	99-10-046
132A-350-045	NEW	99-15-072	132K-16-060	REP	99-10-046	132K-16-430	REP-P	99-07-109
132A-350-050	NEW-P	99-10-100	132K-16-070	REP-P	99-07-109	132K-16-430	REP	99-10-046
132A-350-050	NEW	99-15-072	132K-16-070	REP	99-10-046	132K-16-440	REP-P	99-07-109
132H-168-010	REP-P	99-05-018	132K-16-110	REP-P	99-07-109	132K-16-440	REP	99-10-046
132H-168-010	REP	99-10-045	132K-16-110	REP	99-10-046	132K-16-450	REP-P	99-07-109
132H-168-020	REP-P	99-05-018	132K-16-120	REP-P	99-07-109	132K-16-450	REP	99-10-046
132H-168-020	REP	99-10-045	132K-16-120	REP	99-10-046	132K-16-460	REP-P	99-07-109

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
132K-16-460	REP	99-10-046	132K-125-320	NEW-P	99-07-109	132P-33-210	AMD-P	99-08-019
132K-16-470	REP-P	99-07-109	132K-125-320	NEW	99-10-046	132P-33-210	AMD	99-13-140
132K-16-470	REP	99-10-046	132K-125-330	NEW-P	99-07-109	132P-33-220	AMD-P	99-08-019
132K-16-480	REP-P	99-07-109	132K-125-330	NEW	99-10-046	132P-33-220	AMD	99-13-140
132K-16-480	REP	99-10-046	132K-125-340	NEW-P	99-07-109	132P-33-230	AMD-P	99-08-019
132K-125-010	NEW-P	99-07-109	132K-125-340	NEW	99-10-046	132P-33-230	AMD	99-13-140
132K-125-010	NEW	99-10-046	132K-125-350	NEW-P	99-07-109	132P-33-260	AMD-P	99-08-019
132K-125-020	NEW-P	99-07-109	132K-125-350	NEW	99-10-046	132P-33-260	AMD	99-13-140
132K-125-020	NEW	99-10-046	132K-125-360	NEW-P	99-07-109	132P-33-270	AMD-P	99-08-019
132K-125-030	NEW-P	99-07-109	132K-125-360	NEW	99-10-046	132P-33-270	AMD	99-13-140
132K-125-030	NEW	99-10-046	132K-125-370	NEW-P	99-07-109	132P-276	PREP	99-05-041
132K-125-040	NEW-P	99-07-109	132K-125-370	NEW	99-10-046	132O-12-010	REP-C	99-05-040
132K-125-040	NEW	99-10-046	132K-125-380	NEW-P	99-07-109	132O-12-010	REP	99-10-012
132K-125-050	NEW-P	99-07-109	132K-125-380	NEW	99-10-046	132V-120	PREP	99-16-107
132K-125-050	NEW	99-10-046	132K-125-390	NEW-P	99-07-109	132V-300	PREP	99-16-108
132K-125-060	NEW-P	99-07-109	132K-125-390	NEW	99-10-046	132V-400	PREP	99-16-109
132K-125-060	NEW	99-10-046	132K-125-400	NEW-P	99-07-109	132X-10	PREP	99-06-032
132K-125-070	NEW-P	99-07-109	132K-125-400	NEW	99-10-046	132X-20	PREP	99-06-032
132K-125-070	NEW	99-10-046	132K-125-410	NEW-P	99-07-109	132X-30	PREP	99-06-032
132K-125-080	NEW-P	99-07-109	132K-125-410	NEW	99-10-046	132X-40	PREP	99-06-032
132K-125-080	NEW	99-10-046	132K-125-420	NEW-P	99-07-109	132X-50	PREP	99-06-032
132K-125-090	NEW-P	99-07-109	132K-125-420	NEW	99-10-046	132X-60	PREP	99-06-032
132K-125-090	NEW	99-10-046	132K-125-430	NEW-P	99-07-109	136-130-050	AMD-P	99-09-084
132K-125-100	NEW-P	99-07-109	132K-125-430	NEW	99-10-046	136-130-050	AMD	99-16-038
132K-125-100	NEW	99-10-046	132N-160	PREP	99-06-011	136-130-070	AMD-P	99-17-039
132K-125-110	NEW-P	99-07-109	132N-160-010	NEW-P	99-10-044	137-08-010	PREP	99-14-017
132K-125-110	NEW	99-10-046	132N-160-010	NEW	99-15-017	137-08-020	PREP	99-14-017
132K-125-120	NEW-P	99-07-109	132N-160-020	NEW-P	99-10-044	137-08-060	PREP	99-14-017
132K-125-120	NEW	99-10-046	132N-160-020	NEW	99-15-017	137-08-070	PREP	99-14-017
132K-125-130	NEW-P	99-07-109	132N-160-030	NEW-P	99-10-044	137-08-080	PREP	99-14-017
132K-125-130	NEW	99-10-046	132N-160-030	NEW	99-15-017	137-08-090	PREP	99-14-017
132K-125-140	NEW-P	99-07-109	132N-160-040	NEW-P	99-10-044	137-08-100	PREP	99-14-017
132K-125-140	NEW	99-10-046	132N-160-040	NEW	99-15-017	137-08-105	PREP	99-14-017
132K-125-150	NEW-P	99-07-109	132N-160-050	NEW-P	99-10-044	137-08-110	PREP	99-14-017
132K-125-150	NEW	99-10-046	132N-160-050	NEW	99-15-017	137-08-120	PREP	99-14-017
132K-125-160	NEW-P	99-07-109	132N-160-060	NEW-P	99-10-044	137-08-130	PREP	99-14-017
132K-125-160	NEW	99-10-046	132N-160-060	NEW	99-15-017	137-08-140	PREP	99-14-017
132K-125-170	NEW-P	99-07-109	132N-160-070	NEW-P	99-10-044	137-08-150	PREP	99-14-017
132K-125-170	NEW	99-10-046	132N-160-070	NEW	99-15-017	137-08-160	PREP	99-14-017
132K-125-180	NEW-P	99-07-109	132N-160-080	NEW-P	99-10-044	137-08-170	PREP	99-14-017
132K-125-180	NEW	99-10-046	132N-160-080	NEW	99-15-017	137-56-110	AMD	99-16-078
132K-125-190	NEW-P	99-07-109	132N-160-090	NEW-P	99-10-044	162-04	PREP	99-12-100
132K-125-190	NEW	99-10-046	132N-160-090	NEW	99-15-017	162-12	PREP	99-12-098
132K-125-200	NEW-P	99-07-109	132P-33-010	AMD-P	99-08-019	162-12-100	AMD-P	99-17-102
132K-125-200	NEW	99-10-046	132P-33-010	AMD	99-13-140	162-12-120	AMD-P	99-17-102
132K-125-210	NEW-P	99-07-109	132P-33-020	AMD-P	99-08-019	162-12-130	AMD-P	99-17-102
132K-125-210	NEW	99-10-046	132P-33-020	AMD	99-13-140	162-12-135	AMD-P	99-17-102
132K-125-220	NEW-P	99-07-109	132P-33-080	AMD-P	99-08-019	162-12-140	AMD-P	99-17-102
132K-125-220	NEW	99-10-046	132P-33-080	AMD	99-13-140	162-12-150	AMD-P	99-17-102
132K-125-230	NEW-P	99-07-109	132P-33-100	AMD-P	99-08-019	162-12-160	AMD-P	99-17-102
132K-125-230	NEW	99-10-046	132P-33-100	AMD	99-13-140	162-12-170	AMD-P	99-17-102
132K-125-240	NEW-P	99-07-109	132P-33-120	AMD-P	99-08-019	162-12-180	AMD-P	99-17-102
132K-125-240	NEW	99-10-046	132P-33-120	AMD	99-13-140	162-16-020	REP-P	99-04-108
132K-125-250	NEW-P	99-07-109	132P-33-123	NEW-P	99-08-019	162-16-020	REP	99-15-025
132K-125-250	NEW	99-10-046	132P-33-123	NEW	99-13-140	162-16-030	REP-P	99-04-108
132K-125-260	NEW-P	99-07-109	132P-33-125	NEW-P	99-08-019	162-16-030	REP	99-15-025
132K-125-260	NEW	99-10-046	132P-33-125	NEW	99-13-140	162-16-040	REP-P	99-04-108
132K-125-270	NEW-P	99-07-109	132P-33-130	AMD-P	99-08-019	162-16-040	REP	99-15-025
132K-125-270	NEW	99-10-046	132P-33-130	AMD	99-13-140	162-16-050	REP-P	99-04-108
132K-125-280	NEW-P	99-07-109	132P-33-150	AMD-P	99-08-019	162-16-050	REP	99-15-025
132K-125-280	NEW	99-10-046	132P-33-150	AMD	99-13-140	162-16-060	REP-P	99-04-108
132K-125-290	NEW-P	99-07-109	132P-33-155	NEW-P	99-08-019	162-16-060	REP	99-15-025
132K-125-290	NEW	99-10-046	132P-33-155	NEW	99-13-140	162-16-070	REP-P	99-04-108
132K-125-300	NEW-P	99-07-109	132P-33-160	AMD-P	99-08-019	162-16-070	REP	99-15-025
132K-125-300	NEW	99-10-046	132P-33-160	AMD	99-13-140	162-16-080	REP-P	99-04-108
132K-125-310	NEW-P	99-07-109	132P-33-170	AMD-P	99-08-019	162-16-080	REP	99-15-025
132K-125-310	NEW	99-10-046	132P-33-170	AMD	99-13-140	162-16-090	REP-P	99-04-108

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
162-16-090	REP	99-15-025	162-22-050	REP-P	99-04-108	162-40	PREP	99-12-098
162-16-100	REP-P	99-04-108	162-22-050	REP	99-15-025	162-40-010	AMD-P	99-17-102
162-16-100	REP	99-15-025	162-22-060	REP-P	99-04-108	162-40-021	AMD-P	99-17-102
162-16-110	REP-P	99-04-108	162-22-060	REP	99-15-025	162-40-031	REP-P	99-17-102
162-16-110	REP	99-15-025	162-22-065	NEW-P	99-04-108	162-40-041	AMD-P	99-17-102
162-16-120	REP-P	99-04-108	162-22-065	NEW	99-15-025	162-40-051	REP-P	99-17-102
162-16-120	REP	99-15-025	162-22-070	REP-P	99-04-108	162-40-055	NEW-P	99-17-102
162-16-130	REP-P	99-04-108	162-22-070	REP	99-15-025	162-40-061	REP-P	99-17-102
162-16-130	REP	99-15-025	162-22-075	NEW-P	99-04-108	162-40-065	NEW-P	99-17-102
162-16-140	REP-P	99-04-108	162-22-075	NEW	99-15-025	162-40-071	REP-P	99-17-102
162-16-140	REP	99-15-025	162-22-080	REP-P	99-04-108	162-40-075	NEW-P	99-17-102
162-16-150	REP-P	99-04-108	162-22-080	REP	99-15-025	162-40-081	REP-P	99-17-102
162-16-150	REP	99-15-025	162-22-090	AMD-P	99-04-108	162-40-091	REP-P	99-17-102
162-16-160	REP-P	99-04-108	162-22-090	AMD	99-15-025	162-40-101	REP-P	99-17-102
162-16-160	REP	99-15-025	162-22-100	AMD-P	99-04-108	162-40-111	REP-P	99-17-102
162-16-170	REP-P	99-04-108	162-22-100	AMD	99-15-025	162-40-121	REP-P	99-17-102
162-16-170	REP	99-15-025	162-26	PREP	99-12-100	162-40-131	REP-P	99-17-102
162-16-200	NEW-P	99-04-108	162-26	PREP	99-13-121	162-40-141	REP-P	99-17-102
162-16-200	NEW	99-15-025	162-26-010	AMD-P	99-04-108	162-40-151	REP-P	99-17-102
162-16-210	NEW-P	99-04-108	162-26-010	AMD	99-15-025	162-40-161	REP-P	99-17-102
162-16-210	NEW	99-15-025	162-26-020	REP-P	99-04-108	162-40-171	AMD-P	99-17-102
162-16-220	NEW-P	99-04-108	162-26-020	REP	99-15-025	162-40-181	AMD-P	99-17-102
162-16-220	NEW	99-15-025	162-26-030	REP-P	99-04-108	162-40-191	AMD-P	99-17-102
162-16-230	NEW-P	99-04-108	162-26-030	REP	99-15-025	162-40-201	AMD-P	99-17-102
162-16-230	NEW	99-15-025	162-26-035	REP-P	99-04-108	162-40-211	AMD-P	99-17-102
162-16-240	NEW-P	99-04-108	162-26-035	REP	99-15-025	162-40-221	AMD-P	99-17-102
162-16-240	NEW	99-15-025	162-26-040	AMD-P	99-04-108	162-40-231	AMD-P	99-17-102
162-16-250	NEW-P	99-04-108	162-26-040	AMD	99-15-025	162-40-241	REP-P	99-17-102
162-16-250	NEW	99-15-025	162-26-050	REP-P	99-04-108	162-40-251	AMD-P	99-17-102
162-16-260	NEW-P	99-04-108	162-26-050	REP	99-15-025	173-16-010	REP-P	99-08-124
162-16-260	NEW	99-15-025	162-26-060	AMD-P	99-04-108	173-16-020	REP-P	99-08-124
162-16-270	NEW-P	99-04-108	162-26-060	AMD	99-15-025	173-16-030	REP-P	99-08-124
162-16-270	NEW	99-15-025	162-26-070	AMD-P	99-04-108	173-16-040	REP-P	99-08-124
162-16-280	NEW-P	99-04-108	162-26-070	AMD	99-15-025	173-16-050	REP-P	99-08-124
162-16-280	NEW	99-15-025	162-26-080	AMD-P	99-04-108	173-16-060	REP-P	99-08-124
162-16-290	NEW-P	99-04-108	162-26-080	AMD	99-15-025	173-16-064	REP-P	99-08-124
162-16-290	NEW	99-15-025	162-26-090	REP-P	99-04-108	173-16-070	REP-P	99-08-124
162-18	PREP	99-12-098	162-26-090	REP	99-15-025	173-16-200	REP-P	99-08-124
162-18-010	REP-P	99-17-102	162-26-100	AMD-P	99-04-108	173-26	AMD-C	99-12-094
162-18-020	REP-P	99-17-102	162-26-100	AMD	99-15-025	173-26-020	AMD-P	99-08-124
162-18-030	REP-P	99-17-102	162-26-110	AMD-P	99-04-108	173-26-095	NEW-P	99
162-18-040	REP-P	99-17-102	162-26-110	AMD	99-15-025	173-26-100	AMD-P	99
162-18-050	REP-P	99-17-102	162-26-120	AMD-P	99-04-108	173-26-110	AMD-P	99
162-18-060	REP-P	99-17-102	162-26-120	AMD	99-15-025	173-26-120	AMD-P	99-08-124
162-18-070	REP-P	99-17-102	162-26-135	NEW-P	99-04-108	173-26-170	NEW-P	99-08-124
162-18-080	REP-P	99-17-102	162-26-135	NEW	99-15-025	173-26-180	NEW-P	99-08-124
162-18-090	REP-P	99-17-102	162-26-140	AMD-P	99-04-108	173-26-190	NEW-P	99-08-124
162-18-100	REP-P	99-17-102	162-26-140	AMD	99-15-025	173-26-200	NEW-P	99-08-124
162-20	PREP	99-12-098	162-28	PREP	99-12-098	173-26-210	NEW-P	99-08-124
162-20-010	AMD-P	99-17-102	162-28-030	AMD-P	99-17-102	173-26-220	NEW-P	99-08-124
162-20-020	AMD-P	99-17-102	162-28-040	AMD-P	99-17-102	173-26-230	NEW-P	99-08-124
162-20-030	AMD-P	99-17-102	162-30	PREP	99-12-099	173-26-240	NEW-P	99-08-124
162-22	PREP	99-12-100	162-30-010	AMD-P	99-04-108	173-26-250	NEW-P	99-08-124
162-22-010	AMD-P	99-04-108	162-30-010	AMD	99-15-025	173-26-260	NEW-P	99-08-124
162-22-010	AMD	99-15-025	162-30-020	AMD-P	99-04-108	173-153-010	NEW-P	99-12-109
162-22-020	AMD-P	99-04-108	162-30-020	AMD	99-15-025	173-153-020	NEW-P	99-12-109
162-22-020	AMD	99-15-025	162-38	PREP	99-12-100	173-153-030	NEW-P	99-12-109
162-22-025	NEW-P	99-04-108	162-38-040	AMD-P	99-04-108	173-153-040	NEW-P	99-12-109
162-22-025	NEW	99-15-025	162-38-040	AMD	99-15-025	173-153-050	NEW-P	99-12-109
162-22-030	REP-P	99-04-108	162-38-100	AMD-P	99-04-108	173-153-060	NEW-P	99-12-109
162-22-030	REP	99-15-025	162-38-100	AMD	99-15-025	173-153-070	NEW-P	99-12-109
162-22-035	NEW-P	99-04-108	162-38-105	NEW-P	99-04-108	173-153-080	NEW-P	99-12-109
162-22-035	NEW	99-15-025	162-38-105	NEW	99-15-025	173-153-090	NEW-P	99-12-109
162-22-040	REP-P	99-04-108	162-38-110	AMD-P	99-04-108	173-153-100	NEW-P	99-12-109
162-22-040	REP	99-15-025	162-38-110	AMD	99-15-025	173-153-110	NEW-P	99-12-109
162-22-045	NEW-P	99-04-108	162-38-130	REP-P	99-04-108	173-153-120	NEW-P	99-12-109
162-22-045	NEW	99-15-025	162-38-130	REP	99-15-025	173-153-130	NEW-P	99-12-109

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
173-153-140	NEW-P	99-12-109	173-425-070	AMD-P	99-07-110	180- 16-238	REP	99-07-054
173-153-150	NEW-P	99-12-109	173-425-080	AMD-P	99-07-110	180- 16-240	REP-P	99-04-080
173-153-160	NEW-P	99-12-109	173-425-090	REP-P	99-07-110	180- 16-240	REP	99-10-091
173-153-170	NEW-P	99-12-109	173-425-100	REP-P	99-07-110	180- 18-055	NEW-P	99-04-082
173-153-180	NEW-P	99-12-109	173-425-110	REP-P	99-07-110	180- 18-055	NEW-P	99-06-089
173-153-190	NEW-P	99-12-109	173-433	PREP	99-07-093	180- 18-055	NEW	99-10-094
173-153-200	NEW-P	99-12-109	173-434	PREP	99-07-093	180- 18-055	NEW-W	99-17-085
173-201A	PREP	99-05-060	173-434	PREP	99-17-080	180- 20-011	NEW	99-08-004
173-202-020	AMD-E	99-07-077	173-481	PREP	99-10-042	180- 20-034	AMD	99-08-004
173-202-020	AMD-E	99-09-001	173-490	PREP	99-17-080	180- 20-035	REP	99-08-004
173-202-020	AMD-C	99-09-094	173-491	PREP	99-17-080	180- 20-040	REP	99-08-004
173-224	PREP	99-11-055	173-495-010	AMD-XA	99-13-174	180- 20-040	REP	99-08-004
173-230	AMD-C	99-13-101	173-495-020	AMD-XA	99-13-174	180- 20-055	REP	99-08-004
173-230-010	AMD-P	99-12-038	173-495-040	AMD-XA	99-13-174	180- 20-060	REP	99-08-004
173-230-020	AMD-P	99-12-038	173-495-045	AMD-XA	99-13-174	180- 20-070	REP	99-08-004
173-230-030	REP-P	99-12-038	173-495-045	AMD-XA	99-13-174	180- 20-075	REP	99-08-004
173-230-040	AMD-P	99-12-038	173-495-060	AMD-XA	99-13-174	180- 20-080	REP	99-08-004
173-230-050	REP-P	99-12-038	173-495-065	AMD-XA	99-13-174	180- 20-101	AMD	99-08-004
173-230-061	AMD-P	99-12-038	173-495-070	AMD-XA	99-13-174	180- 20-111	AMD	99-08-004
173-230-065	NEW-P	99-12-038	173-495-080	AMD-XA	99-13-174	180- 20-115	AMD	99-08-004
173-230-070	AMD-P	99-12-038	173-495-100	AMD-XA	99-13-174	180- 20-120	AMD	99-08-004
173-230-080	AMD-P	99-12-038	173-495-120	AMD-XA	99-13-174	180- 20-150	REP	99-08-004
173-230-090	AMD-P	99-12-038	173-532-085	NEW-S	99-08-125	180- 22-150	PREP	99-04-083
173-230-100	AMD-P	99-12-038	173-532-085	NEW	99-13-093	180- 22-150	AMD-P	99-07-065
173-230-110	AMD-P	99-12-038	173-548	AMD-P	99-09-092	180- 24	PREP	99-14-086
173-230-120	AMD-P	99-12-038	173-548-001	NEW-P	99-09-092	180- 25	PREP	99-06-074
173-230-130	AMD-P	99-12-038	173-548-002	NEW-P	99-09-092	180- 26	PREP	99-06-080
173-230-140	AMD-P	99-12-038	173-548-005	NEW-P	99-09-092	180- 26-040	AMD-P	99-14-089
173-303	PREP	99-10-041	173-548-010	AMD-P	99-09-092	180- 27	PREP	99-06-079
173-325-020	AMD-XA	99-17-114	173-548-015	NEW-P	99-09-092	180- 27-020	AMD-P	99-14-090
173-325-030	AMD-XA	99-17-114	173-548-020	AMD-P	99-09-092	180- 27-030	AMD-P	99-14-090
173-325-040	AMD-XA	99-17-114	173-548-030	AMD-P	99-09-092	180- 27-056	AMD-P	99-14-090
173-325-050	AMD-XA	99-17-114	173-548-031	NEW-P	99-09-092	180- 27-080	AMD-P	99-14-090
173-400	PREP	99-07-093	173-548-032	NEW-P	99-09-092	180- 27-082	NEW-W	99-03-026
173-400	PREP	99-09-093	173-548-033	NEW-P	99-09-092	180- 27-083	NEW-W	99-03-026
173-400	PREP	99-10-042	173-548-034	NEW-P	99-09-092	180- 27-102	NEW-P	99-14-090
173-400	PREP	99-17-080	173-548-035	NEW-P	99-09-092	180- 27-600	AMD-P	99-14-090
173-400-030	AMD-XA	99-04-097	173-548-036	NEW-P	99-09-092	180- 27-605	AMD-P	99-14-090
173-400-030	AMD-P	99-12-096	173-548-037	NEW-P	99-09-092	180- 27-610	AMD-P	99-14-090
173-400-040	AMD-XA	99-04-097	173-548-040	AMD-P	99-09-092	180- 27-615	AMD-P	99-14-090
173-400-040	AMD-P	99-12-096	173-548-050	AMD-P	99-09-092	180- 29	PREP	99-06-078
173-400-060	AMD-XA	99-04-097	173-548-060	AMD-P	99-09-092	180- 29-040	AMD-P	99-10-001
173-400-060	AMD-P	99-12-096	173-548-070	AMD-P	99-09-092	180- 29-040	AMD-P	99-14-088
173-400-070	AMD-XA	99-04-097	173-548-075	NEW-P	99-09-092	180- 29-066	NEW-P	99-14-088
173-400-070	AMD-P	99-12-096	173-548-076	NEW-P	99-09-092	180- 29-067	NEW-P	99-14-088
173-400-075	AMD-XA	99-04-097	174-280-015	AMD-P	99-08-030	180- 29-075	AMD-P	99-14-088
173-400-075	AMD-P	99-12-096	174-280-015	AMD	99-12-024	180- 29-085	AMD-P	99-14-088
173-400-104	AMD-XA	99-04-097	174-280-030	AMD-P	99-08-030	180- 29-095	PREP	99-04-086
173-400-104	AMD-P	99-12-096	180- 08-015	NEW-P	99-04-079	180- 29-095	AMD-P	99-07-067
173-400-115	AMD-XA	99-04-097	180- 08-015	NEW	99-10-092	180- 29-160	AMD-P	99-14-088
173-400-115	AMD-P	99-12-096	180- 16-195	AMD-P	99-04-080	180- 31	PREP	99-06-077
173-401	PREP	99-17-080	180- 16-195	AMD	99-10-091	180- 32	PREP	99-06-076
173-405	PREP	99-07-093	180- 16-215	PREP	99-04-088	180- 33	PREP	99-06-075
173-405	PREP	99-17-080	180- 16-215	AMD-P	99-07-069	180- 40	PREP	99-12-015
173-406	PREP	99-13-173	180- 16-220	AMD-P	99-04-080	180- 40-215	PREP	99-04-084
173-409	PREP	99-12-093	180- 16-220	AMD	99-10-091	180- 40-215	AMD-P	99-07-064
173-410	PREP	99-07-093	180- 16-221	REP-XR	99-03-001	180- 40-305	PREP	99-12-016
173-410	PREP	99-17-080	180- 16-221	REP	99-07-054	180- 41-035	PREP	99-04-090
173-415	PREP	99-10-042	180- 16-222	REP-XR	99-03-001	180- 41-035	AMD-P	99-07-073
173-415	PREP	99-17-080	180- 16-222	REP	99-07-054	180- 51	PREP	99-10-089
173-425	AMD-P	99-07-110	180- 16-222	REP-XR	99-03-001	180- 51-050	AMD-P	99-04-081
173-425-010	AMD-P	99-07-110	180- 16-226	REP	99-07-054	180- 51-050	AMD	99-10-093
173-425-020	AMD-P	99-07-110	180- 16-226	REP	99-07-054	180- 51-107	NEW-P	99-04-082
173-425-030	AMD-P	99-07-110	180- 16-231	REP-XR	99-03-001	180- 51-107	NEW-P	99-06-089
173-425-040	AMD-P	99-07-110	180- 16-231	REP	99-07-054	180- 51-107	NEW	99-10-094
173-425-050	AMD-P	99-07-110	180- 16-236	REP-XR	99-03-001	180- 51-107	NEW-W	99-17-085
173-425-060	AMD-P	99-07-110	180- 16-236	REP	99-07-054	180- 51-110	PREP	99-04-091
			180- 16-238	REP-XR	99-03-001	180- 51-110	AMD-P	99-07-072

Table

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
180- 51-110	AMD-S	99-14-011	180- 82-321	NEW	99-07-102	192- 12-070	REP-XA	99-13-115
180- 52	PREP	99-10-090	180- 82-322	NEW	99-04-008	192- 12-072	REP-P	99-05-068
180- 52-041	NEW-P	99-14-087	180- 82-324	NEW	99-04-008	192- 12-074	REP-XA	99-11-091
180- 55-085	PREP	99-04-089	180- 82-326	NEW	99-04-008	192- 12-076	REP-XA	99-11-090
180- 55-085	AMD-P	99-07-068	180- 82-328	NEW	99-04-008	192- 12-080	REP-XR	99-10-006
180- 56-245	PREP	99-04-092	180- 82-330	NEW	99-04-008	192- 12-090	REP-XA	99-11-094
180- 56-245	AMD-P	99-07-071	180- 82-331	NEW	99-06-005	192- 12-100	REP-XA	99-13-116
180- 77A	PREP	99-04-046	180- 82-332	NEW	99-04-008	192- 12-110	REP-XR	99-10-007
180- 77A-028	AMD-P	99-07-049	180- 82-334	NEW	99-04-008	192- 12-115	REP-XR	99-10-008
180- 77A-028	AMD	99-12-014	180- 82-336	NEW	99-04-008	192- 12-130	REP	99-15-069
180- 77A-029	AMD-P	99-07-049	180- 82-338	NEW-W	99-08-081	192- 12-141	REP	99-08-073
180- 77A-029	AMD	99-12-014	180- 82-339	NEW	99-04-008	192- 12-150	REP	99-08-073
180- 77A-080	NEW-P	99-07-049	180- 82-340	NEW-W	99-08-081	192- 12-182	REP	99-08-073
180- 77A-080	NEW	99-12-014	180- 82-342	NEW	99-04-008	192- 12-330	AMD	99-08-073
180- 78-155	PREP	99-04-087	180- 82-343	NEW	99-04-008	192- 12-350	REP-XR	99-13-107
180- 78-155	AMD-P	99-07-070	180- 82-344	NEW	99-04-008	192- 12-355	REP-XR	99-13-108
180- 78-207	PREP	99-04-087	180- 82-346	NEW	99-04-008	192- 12-360	REP-XA	99-13-111
180- 78-207	AMD-P	99-07-070	180- 82-348	NEW	99-04-008	192- 12-380	REP-XR	99-13-109
180- 78-210	PREP	99-04-087	180- 82-349	NEW-P	99-04-110	192- 15-150	AMD	99-08-073
180- 78-210	AMD-P	99-07-070	180- 82-349	NEW	99-07-102	192- 16-001	REP-XA	99-11-092
180- 78A	PREP	99-16-062	180- 82-350	NEW	99-04-008	192- 16-002	REP-XR	99-12-108
180- 78A	PREP	99-16-063	180- 82-352	NEW	99-04-008	192- 16-051	REP-E	99-05-003
180- 79A	PREP	99-16-059	180- 82-354	NEW	99-04-008	192- 16-051	REP-E	99-13-003
180- 79A	PREP	99-16-062	180- 82-355	NEW	99-04-008	192- 16-051	REP-P	99-13-183
180- 79A-223	PREP	99-06-038	180- 82-356	NEW	99-04-008	192- 16-052	REP-E	99-05-003
180- 79A-223	AMD-P	99-10-003	180- 82-360	NEW	99-04-008	192- 16-052	REP-E	99-13-003
180- 79A-223	AMD	99-14-012	180- 82-362	NEW-W	99-08-081	192- 16-052	REP-P	99-13-183
180- 79A-241	PREP	99-16-061	180- 85-075	AMD-E	99-05-002	192- 16-057	REP-E	99-05-003
180- 79A-260	PREP	99-16-060	180- 85-075	PREP	99-06-039	192- 16-057	REP-E	99-13-003
180- 79A-300	AMD	99-06-006	180- 85-075	AMD-P	99-10-002	192- 16-057	REP-P	99-13-183
180- 79A-380	PREP	99-04-085	180- 85-075	AMD	99-14-010	192- 23-002	REP	99-08-073
180- 79A-380	AMD-P	99-07-066	182- 08-095	PREP	99-11-100	192- 23-013	REP	99-08-073
180- 82	PREP	99-04-109	182- 08-095	AMD-P	99-14-082	192- 23-018	REP	99-08-073
180- 82	PREP	99-12-040	182- 12-111	PREP	99-11-099	192- 24-001	REP	99-08-073
180- 82	PREP	99-16-062	182- 12-111	AMD-P	99-14-081	192- 24-010	REP	99-08-073
180- 82-002	NEW	99-04-008	182- 12-119	PREP	99-11-099	192- 24-020	REP	99-08-073
180- 82-004	NEW	99-04-008	182- 12-119	AMD-P	99-14-081	192- 24-030	REP-P	99-09-097
180- 82-105	NEW	99-04-008	182- 25-010	PREP	99-15-098	192- 24-030	REP	99-13-002
180- 82-110	NEW	99-04-008	182- 25-020	PREP	99-15-099	192- 100-500	NEW-XA	99-13-110
180- 82-115	NEW	99-04-008	182- 25-030	PREP	99-08-107	192-100-510	NEW-XA	99-13-113
180- 82-120	NEW	99-04-008	182- 25-030	AMD-P	99-12-032	192-110-005	NEW	99
180- 82-125	NEW	99-04-008	182- 25-030	PREP	99-15-098	192-110-010	NEW	99
180- 82-130	NEW	99-04-008	182- 25-030	AMD	99-16-022	192-110-015	NEW	99
180- 82-200	NEW	99-04-008	182- 25-040	PREP	99-05-077	192-110-020	NEW	99-08-073
180- 82-201	NEW	99-04-008	182- 25-040	AMD-P	99-12-032	192-110-050	NEW	99-08-073
180- 82-202	NEW	99-04-008	182- 25-040	PREP	99-15-098	192-120-001	NEW	99-08-073
180- 82-204	NEW	99-04-008	182- 25-040	AMD	99-16-022	192-120-010	NEW	99-08-073
180- 82-210	NEW	99-04-008	182- 25-085	PREP	99-05-077	192-120-020	NEW	99-08-073
180- 82-215	NEW	99-04-008	182- 25-085	NEW-P	99-08-106	192-120-030	NEW	99-08-073
180- 82-300	NEW	99-04-008	182- 25-085	NEW	99-12-033	192-120-035	NEW	99-08-073
180- 82-302	NEW-W	99-08-081	182- 25-090	PREP	99-05-077	192-120-040	NEW	99-08-073
180- 82-304	NEW	99-04-008	182- 25-090	AMD-P	99-08-106	192-140-005	NEW	99-08-073
180- 82-306	NEW-W	99-08-081	182- 25-090	AMD	99-12-033	192-140-010	NEW	99-08-073
180- 82-308	NEW	99-04-008	182- 25-090	PREP	99-15-098	192-140-020	NEW	99-08-073
180- 82-310	NEW	99-04-008	182- 25-100	AMD	99-07-078	192-140-025	NEW	99-08-073
180- 82-312	NEW	99-04-008	182- 25-105	AMD	99-07-078	192-140-030	NEW	99-08-073
180- 82-314	NEW	99-04-008	182- 25-110	AMD	99-07-078	192-150-090	NEW	99-08-073
180- 82-315	NEW-P	99-04-110	192- 04-060	AMD	99-15-069	192-180-005	NEW-P	99-09-097
180- 82-315	NEW	99-07-102	192- 04-170	AMD	99-08-073	192-180-005	NEW	99-13-002
180- 82-316	NEW	99-04-008	192- 04-190	AMD	99-08-073	192-180-010	NEW-P	99-09-097
180- 82-317	NEW-P	99-04-110	192- 12-005	REP	99-08-073	192-180-010	NEW	99-13-002
180- 82-317	NEW	99-07-102	192- 12-010	REP-XA	99-13-110	192-180-015	NEW-P	99-09-097
180- 82-318	NEW	99-04-008	192- 12-015	REP-XA	99-13-113	192-180-015	NEW	99-13-002
180- 82-319	NEW-P	99-04-110	192- 12-035	REP-XR	99-10-005	192-180-020	NEW-P	99-09-097
180- 82-319	NEW	99-07-102	192- 12-050	PREP	99-11-088	192-180-020	NEW	99-13-002
180- 82-320	NEW	99-04-008	192- 12-060	REP-XA	99-13-112	192-180-025	NEW-P	99-09-097
180- 82-321	NEW-P	99-04-110	192- 12-066	REP-XA	99-13-114	192-180-025	NEW	99-13-002

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
192-180-030	NEW-P	99-09-097	196-24-100	AMD	99-15-051	220-24-02000I	REP-E	99-16-053
192-180-030	NEW	99-13-002	196-25-040	PREP	99-02-074	220-24-02000J	NEW-E	99-16-053
192-200-020	NEW	99-08-073	196-25-040	AMD-P	99-10-080	220-24-02000J	REP-E	99-16-053
192-210-005	NEW-E	99-05-003	196-25-040	AMD	99-15-057	220-24-02000J	REP-E	99-17-014
192-210-005	NEW-E	99-13-003	196-25-050	NEW-P	99-10-082	220-24-02000K	NEW-E	99-17-045
192-210-005	NEW-P	99-13-183	196-25-050	NEW	99-15-053	220-24-02000K	REP-E	99-17-045
192-210-010	NEW-E	99-05-003	196-25-060	NEW-P	99-10-083	220-24-04000A	NEW-E	99-16-016
192-210-010	NEW-E	99-13-003	196-25-060	NEW	99-15-054	220-32-05100J	NEW-E	99-04-059
192-210-010	NEW-P	99-13-183	196-25-100	NEW-P	99-10-081	220-32-05100J	REP-E	99-04-059
192-210-015	NEW-E	99-05-003	196-25-100	NEW	99-15-052	220-32-05100K	NEW-E	99-07-009
192-210-015	NEW-E	99-13-003	196-26-020	PREP	99-02-070	220-32-05100K	REP-E	99-07-009
192-210-015	NEW-P	99-13-183	196-26-020	AMD-P	99-08-132	220-32-05500T	REP-E	99-09-016
192-300-050	NEW-P	99-05-068	196-26-020	AMD	99-12-036	220-32-05500T	NEW-E	99-09-016
192-300-100	NEW-XA	99-13-111	204-10-020	PREP	99-09-049	220-32-05500U	REP-E	99-11-001
192-300-150	NEW-XA	99-11-094	204-10-020	AMD-P	99-13-135	220-32-05500U	NEW-E	99-11-001
192-300-180	NEW-XA	99-13-112	204-24-050	AMD	99-06-023	220-32-05500U	REP-E	99-12-045
192-310-035	NEW-XA	99-11-092	204-32-020	PREP	99-09-021	220-32-05500V	NEW-E	99-12-045
192-310-040	NEW-XA	99-11-093	204-32-020	AMD-P	99-13-133	220-32-05500V	REP-E	99-13-079
192-310-050	PREP	99-11-088	204-32-040	PREP	99-09-021	220-32-05500W	NEW-E	99-13-079
192-310-050	NEW-P	99-17-092	204-32-040	AMD-P	99-13-133	220-32-05500W	REP-E	99-13-146
192-310-055	PREP	99-11-089	204-32-060	PREP	99-09-021	220-32-05500X	NEW-E	99-13-146
192-310-055	NEW-P	99-17-091	204-32-060	AMD-P	99-13-133	220-32-05700A	NEW-E	99-08-048
192-310-060	NEW-XA	99-13-114	204-80-020	AMD	99-02-045	220-32-05700A	REP-E	99-13-012
192-310-070	NEW-XA	99-13-115	204-90-140	PREP	99-09-049	220-32-05700B	NEW-E	99-13-012
192-310-100	NEW-XA	99-13-116	204-90-140	AMD-P	99-13-135	220-33-01000N	NEW-E	99-05-055
192-320-050	NEW-P	99-05-068	204-96-010	PREP	99-09-048	220-33-01000N	REP-E	99-05-055
192-320-055	NEW-XA	99-11-091	204-96-010	NEW-P	99-13-134	220-33-01000P	NEW-E	99-06-031
192-320-060	NEW-XA	99-11-090	208-464-010	REP	99-03-009	220-33-01000P	REP-E	99-06-031
194-22	PREP	99-07-005	208-464-020	REP	99-03-009	220-33-01000O	NEW-E	99-10-022
194-22-010	AMD-XA	99-16-099	208-464-030	REP	99-03-009	220-33-01000O	REP-E	99-10-022
194-22-020	AMD-XA	99-16-099	208-464-040	REP	99-03-009	220-33-01000R	NEW-E	99-14-016
194-22-120	AMD-XA	99-16-099	208-464-050	REP	99-03-009	220-33-01000R	REP-E	99-14-016
194-22-130	AMD-XA	99-16-099	208-464-060	REP	99-03-009	220-33-01000S	REP-E	99-16-052
196-23	PREP	99-07-135	208-464-070	REP	99-03-009	220-33-01000S	NEW-E	99-16-052
196-23	PREP	99-07-136	208-464-080	REP	99-03-009	220-33-03000M	NEW-E	99-11-002
196-23-010	NEW-P	99-10-084	208-464-090	REP	99-03-009	220-33-03000M	REP-E	99-11-002
196-23-010	NEW	99-15-058	208-480-010	REP	99-03-009	220-33-03000N	REP-E	99-14-015
196-23-020	NEW-P	99-10-085	208-480-020	REP	99-03-009	220-33-03000N	NEW-E	99-14-015
196-23-020	NEW	99-15-055	208-480-030	REP	99-03-009	220-44-05000U	REP-E	99-08-045
196-23-030	NEW-P	99-10-086	208-480-040	REP	99-03-009	220-44-05000U	NEW-E	99-08-045
196-23-030	NEW	99-15-050	208-480-050	REP	99-03-009	220-44-05000V	REP-E	99-10-038
196-23-050	NEW-P	99-10-087	208-480-060	REP	99-03-009	220-44-05000V	NEW-E	99-10-038
196-23-050	NEW	99-15-056	208-480-070	REP	99-03-009	220-44-05000W	REP-E	99-14-050
196-24-058	PREP	99-07-134	208-620-020	AMD-XA	99-14-006	220-44-05000W	REP-E	99-14-050
196-24-058	REP-P	99-10-081	208-620-180	AMD-XA	99-14-006	220-44-05000X	NEW-E	99-14-050
196-24-058	REP	99-15-052	208-630-015	AMD-XA	99-14-007	220-44-08000A	NEW-E	99-03-008
196-24-060	PREP	99-02-073	208-630-025	AMD-XA	99-14-007	220-44-10000A	NEW-E	99-13-132
196-24-060	REP-P	99-10-088	208-630-035	AMD-XA	99-14-007	220-47-302	AMD-XA	99-11-097
196-24-060	REP	99-15-051	208-630-100	AMD-XA	99-14-007	220-47-302	AMD-W	99-12-086
196-24-085	PREP	99-02-071	208-660	PREP	99-16-072	220-47-302	AMD-XA	99-12-097
196-24-090	PREP	99-02-075	220-16-225	AMD	99-08-029	220-47-302	AMD-W	99-13-007
196-24-090	REP-P	99-10-082	220-16-32000A	NEW-E	99-13-009	220-47-302	AMD-XA	99-13-008
196-24-090	REP	99-15-053	220-16-48000A	NEW-E	99-17-040	220-47-30200A	NEW-E	99-16-017
196-24-092	PREP	99-02-076	220-16-550	AMD-XA	99-11-098	220-47-304	AMD-XA	99-11-097
196-24-092	REP-P	99-10-083	220-16-550	AMD	99-15-081	220-47-304	AMD-W	99-12-086
196-24-092	REP	99-15-054	220-16-55000A	NEW-E	99-10-049	220-47-304	AMD-XA	99-12-097
196-24-095	PREP	99-02-077	220-16-55000A	REP-E	99-10-049	220-47-304	AMD-W	99-13-007
196-24-095	REP-P	99-10-084	220-20-016	AMD-XA	99-12-097	220-47-304	AMD-XA	99-13-008
196-24-095	REP	99-15-058	220-20-016	AMD-W	99-13-007	220-47-307	AMD-XA	99-11-097
196-24-097	PREP	99-02-078	220-20-016	AMD-XA	99-13-008	220-47-307	AMD-W	99-12-086
196-24-097	REP-P	99-10-085	220-20-016	AMD-XA	99-13-008	220-47-307	AMD-XA	99-12-097
196-24-097	REP	99-15-055	220-20-01600A	NEW-E	99-16-017	220-47-307	AMD-W	99-13-007
196-24-098	PREP	99-02-079	220-20-070	AMD-P	99-13-054	220-47-307	AMD-XA	99-13-008
196-24-098	REP-P	99-10-087	220-20-070	AMD	99-17-096	220-47-307	AMD-XA	99-13-008
196-24-098	REP	99-15-056	220-24-02000H	NEW-E	99-10-037	220-47-30700C	NEW-E	99-16-017
196-24-100	PREP	99-02-072	220-24-02000H	REP-E	99-15-014	220-47-311	AMD-XA	99-11-097
196-24-100	AMD-P	99-10-088	220-24-02000I	NEW-E	99-15-014	220-47-311	AMD-W	99-12-086
			220-24-02000I	REP-E	99-15-014	220-47-311	AMD-XA	99-12-097
						220-47-311	AMD-W	99-13-007

TABLE

Table

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-47-311	AMD-XA	99-13-008	220-52-04600M	REP-E	99-09-035	220-56-123	AMD-XA	99-11-098
220-47-31100B	NEW-E	99-16-017	220-52-04600N	REP-E	99-10-011	220-56-123	AMD	99-15-081
220-47-325	AMD-XA	99-11-097	220-52-04600N	NEW-E	99-10-011	220-56-124	AMD-XA	99-11-098
220-47-325	AMD-W	99-12-086	220-52-04600P	NEW-E	99-10-023	220-56-124	AMD	99-15-081
220-47-325	AMD-XA	99-12-097	220-52-04600P	REP-E	99-10-023	220-56-12400E	NEW-E	99-10-049
220-47-325	AMD-W	99-13-007	220-52-04600O	NEW-E	99-11-013	220-56-12400E	REP-E	99-10-049
220-47-325	AMD-XA	99-13-008	220-52-04600O	REP-E	99-11-013	220-56-12400F	NEW-E	99-16-056
220-47-32500A	NEW-E	99-16-017	220-52-04600O	REP-E	99-11-021	220-56-12800B	NEW-E	99-12-002
220-47-401	AMD-XA	99-11-097	220-52-04600R	REP-E	99-11-021	220-56-145	AMD	99-08-029
220-47-401	AMD-W	99-12-086	220-52-04600R	NEW-E	99-11-021	220-56-175	AMD-P	99-13-119
220-47-401	AMD-XA	99-12-097	220-52-04600S	NEW-E	99-11-042	220-56-175	AMD	99-17-066
220-47-401	AMD-W	99-13-007	220-52-04600S	REP-E	99-11-042	220-56-185	AMD	99-08-029
220-47-401	AMD-XA	99-13-008	220-52-050	REP-E	99-04-053	220-56-185	AMD-XA	99-11-098
220-47-40100B	NEW-E	99-16-017	220-52-071	AMD-P	99-13-118	220-56-185	AMD	99-15-081
220-47-410	AMD-XA	99-11-097	220-52-071	AMD	99-17-068	220-56-190	AMD-XA	99-11-098
220-47-410	AMD-W	99-12-086	220-52-071001	REP-E	99-07-033	220-56-190	AMD	99-15-081
220-47-410	AMD-XA	99-12-097	220-52-071001	NEW-E	99-07-033	220-56-19000X	NEW-E	99-15-061
220-47-410	AMD-W	99-13-007	220-52-07100J	REP-E	99-08-010	220-56-19000Z	NEW-E	99-17-069
220-47-410	AMD-XA	99-13-008	220-52-07100J	NEW-E	99-08-010	220-56-191	AMD-XA	99-11-098
220-47-41000A	NEW-E	99-16-017	220-52-07100K	NEW-E	99-13-051	220-56-191	AMD	99-15-081
220-47-411	AMD-XA	99-11-097	220-52-07100K	REP-E	99-15-036	220-56-19100G	REP-E	99-05-061
220-47-411	AMD-W	99-12-086	220-52-07100L	NEW-E	99-15-036	220-56-19100G	NEW-E	99-05-061
220-47-411	AMD-XA	99-12-097	220-52-07100L	REP-E	99-17-005	220-56-19100I	REP-E	99-10-049
220-47-411	AMD-W	99-13-007	220-52-07100M	NEW-E	99-17-005	220-56-19100I	NEW-E	99-10-049
220-47-411	AMD-XA	99-13-008	220-52-07100M	REP-E	99-17-047	220-56-19100J	NEW-E	99-16-056
220-47-41100A	NEW-E	99-16-017	220-52-07100N	NEW-E	99-17-047	220-56-19100J	REP-E	99-16-065
220-47-412	REP-XA	99-11-097	220-52-07300J	REP-E	99-03-054	220-56-19100K	NEW-E	99-16-065
220-47-412	REP-W	99-12-086	220-52-07300K	NEW-E	99-03-054	220-56-195	AMD-XA	99-11-098
220-47-412	REP-XA	99-12-097	220-52-07500B	NEW-E	99-10-050	220-56-195	AMD	99-15-081
220-47-412	REP-W	99-13-007	220-52-24000K	NEW-E	99-10-050	220-56-19500B	REP-E	99-10-049
220-47-412	REP-XA	99-13-008	220-55-001	NEW	99-03-029	220-56-19500B	NEW-E	99-10-049
220-47-41200A	NEW-E	99-16-017	220-55-005	AMD	99-03-029	220-56-19500C	REP-E	99-14-048
220-47-427	AMD-XA	99-11-097	220-55-010	AMD	99-03-029	220-56-19500C	NEW-E	99-14-048
220-47-427	AMD-W	99-12-086	220-55-015	AMD	99-03-029	220-56-19500D	NEW-E	99-16-055
220-47-427	AMD-XA	99-12-097	220-55-040	AMD	99-03-029	220-56-19500E	NEW-E	99-16-056
220-47-427	AMD-W	99-13-007	220-55-050	AMD	99-03-029	220-56-199	REP-E	99-17-069
220-47-427	AMD-XA	99-13-008	220-55-055	AMD	99-03-029	220-56-205	AMD-XA	99-11-098
220-47-428	AMD-XA	99-11-097	220-55-05500A	NEW-E	99-06-007	220-56-205	AMD	99-15-081
220-47-428	AMD-W	99-12-086	220-55-060	AMD	99-03-029	220-56-20500C	NEW-E	99-10-049
220-47-428	AMD-XA	99-12-097	220-55-065	AMD	99-03-029	220-56-20500C	REP-E	99-10-049
220-47-428	AMD-W	99-13-007	220-55-070	AMD	99-03-029	220-56-225	REP-XA	99
220-47-428	AMD-XA	99-13-008	220-55-075	REP	99-03-029	220-56-225	REP	99
220-47-430	NEW-XA	99-11-097	220-55-100	AMD	99-03-029	220-56-235	AMD-XA	99
220-47-430	NEW-W	99-12-086	220-55-105	AMD	99-03-029	220-56-235	AMD	99-15-081
220-47-430	NEW-XA	99-13-008	220-55-110	AMD	99-03-029	220-56-23500C	REP-E	99-10-049
220-47-43000A	NEW-E	99-16-017	220-55-115	AMD	99-03-029	220-56-23500C	NEW-E	99-10-049
220-48-015001	NEW-E	99-08-011	220-55-115	AMD-P	99-13-117	220-56-245	REP-XA	99-11-098
220-48-015001	REP-E	99-14-049	220-55-115	AMD	99-17-095	220-56-245	REP	99-15-081
220-48-01500J	NEW-E	99-14-049	220-55-120	AMD	99-03-029	220-56-250	AMD-W	99-10-073
220-49-020	AMD-P	99-13-120	220-55-125	AMD	99-03-029	220-56-255	AMD	99-08-029
220-49-020	AMD	99-17-067	220-55-155	REP	99-03-029	220-56-255	AMD-XA	99-11-098
220-52-040001	REP-E	99-09-035	220-55-160	NEW	99-08-029	220-56-255	AMD	99-15-081
220-52-040001	NEW-E	99-09-035	220-56-100	AMD	99-08-029	220-56-25500H	REP-E	99-10-049
220-52-04000J	NEW-E	99-10-011	220-56-103	AMD	99-08-029	220-56-25500H	NEW-E	99-10-049
220-52-04000J	REP-E	99-10-011	220-56-105	AMD-XA	99-11-098	220-56-25500H	REP-E	99-11-043
220-52-04000K	NEW-E	99-10-023	220-56-105	AMD	99-15-081	220-56-25500I	NEW-E	99-11-043
220-52-04000K	REP-E	99-10-023	220-56-10500B	REP-E	99-10-049	220-56-25500I	REP-E	99-12-074
220-52-04000L	REP-E	99-11-013	220-56-10500B	NEW-E	99-10-049	220-56-25500J	NEW-E	99-12-074
220-52-04000L	NEW-E	99-11-013	220-56-115	AMD-XA	99-11-098	220-56-25500J	REP-E	99-15-013
220-52-04000M	NEW-E	99-11-042	220-56-115	AMD	99-15-081	220-56-25500K	NEW-E	99-15-013
220-52-04000M	REP-E	99-11-042	220-56-11500A	REP-E	99-10-049	220-56-267	NEW	99-08-029
220-52-046	AMD	99-10-062	220-56-11500A	NEW-E	99-10-049	220-56-270	AMD	99-08-029
220-52-04600J	REP-E	99-08-048	220-56-11500A	REP-E	99-14-048	220-56-27000E	NEW-E	99-07-007
220-52-04600K	REP-E	99-08-011	220-56-11500B	NEW-E	99-14-048	220-56-28500S	NEW-E	99-07-006
220-52-04600L	NEW-E	99-08-011	220-56-11500B	REP-E	99-14-048	220-56-28500S	REP-E	99-07-006
220-52-04600L	REP-E	99-09-035	220-56-11500B	REP-E	99-16-056	220-56-28500T	NEW-E	99-12-002
220-52-04600M	NEW-E	99-09-035	220-56-11500C	NEW-E	99-16-056	220-56-30500D	NEW-E	99-09-014

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220-56-30500D	REP-E	99-13-059	220-57-135	AMD	99-15-081	220-57-260	AMD	99-15-081
220-56-30500E	NEW-E	99-13-059	220-57-13500V	NEW-E	99-10-049	220-57-270	AMD-XA	99-11-098
220-56-30500F	NEW-E	99-14-051	220-57-13500V	REP-E	99-10-049	220-57-270	AMD	99-15-081
220-56-30700A	NEW-E	99-13-145	220-57-137	AMD-XA	99-11-098	220-57-27000G	NEW-E	99-10-049
220-56-310	AMD	99-08-029	220-57-137	AMD	99-15-081	220-57-27000G	REP-E	99-10-049
220-56-310	AMD-XA	99-11-098	220-57-13701	AMD-XA	99-11-098	220-57-27000G	REP-E	99-15-020
220-56-310	AMD	99-15-081	220-57-13701	AMD	99-15-081	220-57-27000H	NEW-E	99-15-020
220-56-320	AMD	99-08-029	220-57-140	AMD-XA	99-11-098	220-57-27000H	REP-E	99-15-020
220-56-325	AMD-XA	99-11-098	220-57-140	AMD	99-15-081	220-57-280	AMD-XA	99-11-098
220-56-325	AMD	99-15-081	220-57-14000V	NEW-E	99-10-049	220-57-280	AMD	99-15-081
220-56-32500A	NEW-E	99-12-073	220-57-14000V	REP-E	99-10-049	220-57-285	AMD-XA	99-11-098
220-56-32500A	REP-E	99-12-073	220-57-145	AMD-XA	99-11-098	220-57-285	AMD	99-15-081
220-56-32500B	NEW-E	99-16-030	220-57-145	AMD	99-15-081	220-57-29000W	REP-E	99-13-146
220-56-32500X	NEW-E	99-10-035	220-57-14500A	REP-E	99-10-049	220-57-29000W	NEW-E	99-13-146
220-56-32500X	REP-E	99-10-035	220-57-14500A	NEW-E	99-10-049	220-57-295	AMD-XA	99-11-098
220-56-32500Y	NEW-E	99-10-036	220-57-155	AMD-XA	99-11-098	220-57-295	AMD	99-15-081
220-56-32500Y	REP-E	99-12-005	220-57-155	AMD	99-15-081	220-57-300	AMD-XA	99-11-098
220-56-32500Z	NEW-E	99-12-005	220-57-160	AMD-XA	99-11-098	220-57-300	AMD	99-15-081
220-56-32500Z	REP-E	99-16-030	220-57-160	AMD	99-15-081	220-57-310	AMD-XA	99-11-098
220-56-330	AMD	99-08-029	220-57-16000R	NEW-E	99-07-006	220-57-310	AMD	99-15-081
220-56-33000L	REP-E	99-08-011	220-57-16000R	REP-E	99-10-021	220-57-31000A	NEW-E	99-08-046
220-56-33000M	NEW-E	99-08-011	220-57-16000S	REP-E	99-10-021	220-57-31000A	REP-E	99-12-044
220-56-33000M	REP-E	99-08-038	220-57-16000S	NEW-E	99-10-021	220-57-31000B	REP-E	99-12-044
220-56-33000N	NEW-E	99-08-038	220-57-165	AMD-XA	99-11-098	220-57-31000B	NEW-E	99-12-044
220-56-33000N	REP-E	99-08-058	220-57-165	AMD	99-15-081	220-57-313	AMD-XA	99-11-098
220-56-33000P	NEW-E	99-08-058	220-57-16500B	NEW-E	99-10-049	220-57-313	AMD	99-15-081
220-56-33000P	REP-E	99-11-014	220-57-16500B	REP-E	99-10-049	220-57-315	AMD-XA	99-11-098
220-56-33000O	NEW-E	99-11-014	220-57-175	AMD-XA	99-11-098	220-57-315	REP-E	99-12-044
220-56-33000O	REP-E	99-12-075	220-57-175	AMD	99-15-081	220-57-315	AMD	99-15-081
220-56-33000R	NEW-E	99-12-075	220-57-17500N	NEW-E	99-08-046	220-57-31500G	NEW-E	99-08-046
220-56-33000R	REP-E	99-13-080	220-57-17500N	REP-E	99-12-044	220-57-31500H	REP-E	99-10-049
220-56-33000S	NEW-E	99-13-080	220-57-17500P	NEW-E	99-10-049	220-57-31500H	NEW-E	99-10-049
220-56-33000S	REP-E	99-14-061	220-57-17500P	REP-E	99-10-049	220-57-31500H	REP-E	99-12-044
220-56-33000T	NEW-E	99-14-061	220-57-17500P	REP-E	99-12-046	220-57-31500I	REP-E	99-12-044
220-56-33000T	REP-E	99-15-038	220-57-17500O	NEW-E	99-12-046	220-57-31500I	NEW-E	99-12-044
220-56-33000U	NEW-E	99-15-038	220-57-17500O	REP-E	99-12-046	220-57-319	AMD-XA	99-11-098
220-56-33000U	REP-E	99-17-006	220-57-17500O	REP-E	99-15-015	220-57-319	AMD	99-15-081
220-56-350	AMD	99-08-029	220-57-17500R	REP-E	99-15-015	220-57-31900T	NEW-E	99-08-046
220-56-35000A	NEW-E	99-13-168	220-57-17500R	NEW-E	99-15-015	220-57-31900T	REP-E	99-12-044
220-56-35000A	REP-E	99-15-037	220-57-187	AMD-XA	99-11-098	220-57-31900U	REP-E	99-10-049
220-56-35000B	NEW-E	99-15-037	220-57-187	AMD	99-15-081	220-57-31900U	NEW-E	99-10-049
220-56-35000B	REP-E	99-17-046	220-57-18700B	NEW-E	99-08-046	220-57-31900U	REP-E	99-12-044
220-56-35000C	NEW-E	99-17-046	220-57-18700B	REP-E	99-12-044	220-57-31900V	NEW-E	99-12-044
220-56-35000V	REP-E	99-07-008	220-57-18700C	REP-E	99-10-049	220-57-31900V	REP-E	99-12-044
220-56-35000W	NEW-E	99-07-008	220-57-18700C	NEW-E	99-10-049	220-57-31900V	REP-E	99-13-130
220-56-35000W	REP-E	99-09-034	220-57-200	AMD-XA	99-11-098	220-57-31900W	NEW-E	99-13-130
220-56-35000X	NEW-E	99-08-047	220-57-200	AMD	99-15-081	220-57-31900W	REP-E	99-13-130
220-56-35000Y	NEW-E	99-09-034	220-57-20000N	REP-E	99-10-049	220-57-321	AMD-XA	99-11-098
220-56-35000Y	REP-E	99-11-038	220-57-20000N	NEW-E	99-10-049	220-57-321	AMD	99-15-081
220-56-35000Z	NEW-E	99-11-038	220-57-220	REP-XA	99-11-098	220-57-32100C	REP-E	99-11-079
220-56-35000Z	REP-E	99-13-168	220-57-220	REP	99-15-081	220-57-32100C	NEW-E	99-11-079
220-56-380	AMD	99-08-029	220-57-230	AMD-XA	99-11-098	220-57-335	AMD-XA	99-11-098
220-56-38000P	REP-E	99-07-008	220-57-230	AMD	99-15-081	220-57-335	AMD	99-15-081
220-56-38000O	NEW-E	99-07-008	220-57-235	AMD-XA	99-11-098	220-57-33500A	NEW-E	99-10-049
220-56-38000O	REP-E	99-09-034	220-57-235	AMD	99-15-081	220-57-33500A	REP-E	99-10-049
220-56-38000R	NEW-E	99-09-034	220-57-250	AMD-XA	99-11-098	220-57-340	AMD-XA	99-11-098
220-56-38000R	REP-E	99-11-038	220-57-250	AMD	99-15-081	220-57-340	AMD	99-15-081
220-56-38000S	NEW-E	99-11-038	220-57-255	AMD-XA	99-11-098	220-57-34000I	NEW-E	99-10-049
220-56-38000S	REP-E	99-13-168	220-57-255	AMD	99-15-081	220-57-34000I	REP-E	99-10-049
220-56-38000T	NEW-E	99-13-168	220-57-25500C	NEW-E	99-08-046	220-57-341	NEW-XA	99-11-098
220-56-38000T	REP-E	99-15-037	220-57-25500C	REP-E	99-12-044	220-57-341	NEW	99-15-081
220-56-38000U	NEW-E	99-15-037	220-57-25500D	REP-E	99-10-049	220-57-342	AMD-XA	99-11-098
220-56-38000U	REP-E	99-17-046	220-57-25500D	NEW-E	99-10-049	220-57-342	AMD	99-15-081
220-56-38000V	NEW-E	99-17-046	220-57-25500D	REP-E	99-12-044	220-57-34600A	REP-E	99-10-049
220-57-120	AMD-XA	99-11-098	220-57-25500E	REP-E	99-12-044	220-57-350	AMD-XA	99-11-098
220-57-120	AMD	99-15-081	220-57-25500E	NEW-E	99-12-044	220-57-350	AMD	99-15-081
220-57-135	AMD-XA	99-11-098	220-57-260	AMD-XA	99-11-098	220-57-355	AMD-XA	99-11-098

Table

TABLE



Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
220- 57-355	AMD	99-15-081	220- 57-520	AMD	99-15-081	222- 10-020	NEW-E	99-08-078
220- 57-35500A	NEW-E	99-10-049	220- 57-52000A	REP-E	99-10-049	222- 10-020	NEW-C	99-09-078
220- 57-35500A	REP-E	99-10-049	220- 57-52000A	NEW-E	99-10-049	222- 10-020	NEW-E	99-16-081
220- 57-365	AMD-XA	99-11-098	220- 57-525	AMD-XA	99-11-098	222- 10-030	NEW-C	99-09-078
220- 57-365	AMD	99-15-081	220- 57-525	AMD	99-15-081	222- 10-040	AMD-E	99-07-075
220- 57-36500A	NEW-E	99-10-049	220- 69-236	NEW-P	99-13-119	222- 10-040	AMD-E	99-08-078
220- 57-36500A	REP-E	99-10-049	220- 69-236	NEW	99-17-066	222- 10-040	AMD-E	99-16-081
220- 57-380	AMD-XA	99-11-098	220- 69-237	REP-P	99-13-119	222- 10-043	NEW-E	99-07-075
220- 57-380	AMD	99-15-081	220- 69-237	REP	99-17-066	222- 10-043	NEW-E	99-08-078
220- 57-38000A	NEW-E	99-16-056	220- 69-238	REP-P	99-13-119	222- 10-043	NEW-E	99-16-081
220- 57-405	AMD-XA	99-11-098	220- 69-238	REP	99-17-066	222- 12-044	NEW-C	99-09-078
220- 57-405	AMD	99-15-081	220- 69-239	REP-P	99-13-119	222- 12-045	AMD-C	99-09-078
220- 57-40500A	NEW-E	99-10-049	220- 69-239	REP	99-17-066	222- 12-090	AMD-E	99-07-074
220- 57-40500A	REP-E	99-10-049	220- 69-24000L	NEW-E	99-13-051	222- 12-090	AMD-E	99-08-077
220- 57-40500B	NEW-E	99-16-056	220- 72-076	AMD	99-10-061	222- 12-090	AMD-C	99-09-078
220- 57-415	AMD-XA	99-11-098	220- 88A-06000	NEW-E	99-10-050	222- 12-090	AMD-E	99-16-080
220- 57-415	AMD	99-15-081	220- 88A-07000	NEW-E	99-10-050	222- 16-010	AMD-E	99-07-075
220- 57-425	AMD-XA	99-11-098	220- 88A-07000	REP-E	99-13-131	222- 16-010	AMD-E	99-08-078
220- 57-425	AMD	99-15-081	220- 88A-07000	NEW-E	99-13-131	222- 16-010	AMD-C	99-09-078
220- 57-430	AMD-XA	99-11-098	220- 88A-07000	REP-E	99-14-014	222- 16-010	AMD-E	99-16-081
220- 57-430	AMD	99-15-081	220- 88A-07000	NEW-E	99-14-014	222- 16-030	AMD-E	99-07-074
220- 57-43000I	NEW-E	99-16-056	220- 88A-07000	REP-E	99-15-019	222- 16-030	AMD-E	99-08-077
220- 57-435	AMD-XA	99-11-098	220- 88A-07000	NEW-E	99-15-019	222- 16-030	AMD-C	99-09-078
220- 57-435	AMD	99-15-081	220- 88A-07000	REP-E	99-17-004	222- 16-030	AMD-E	99-16-080
220- 57-440	AMD-XA	99-11-098	220- 88A-07000	NEW-E	99-17-004	222- 16-050	AMD-E	99-07-075
220- 57-440	AMD	99-15-081	220- 88A-07000	REP-E	99-17-015	222- 16-050	AMD-E	99-08-078
220- 57-44000A	NEW-E	99-10-049	220- 88A-07000	NEW-E	99-17-015	222- 16-050	AMD-C	99-09-078
220- 57-44000A	REP-E	99-10-049	220- 88A-07000	REP-E	99-17-099	222- 16-050	AMD-E	99-16-081
220- 57-450	AMD-XA	99-11-098	220- 88A-07000	NEW-E	99-17-099	222- 16-080	AMD-E	99-07-075
220- 57-450	AMD	99-15-081	220- 88A-07000	NEW-E	99-09-036	222- 16-080	AMD-E	99-08-078
220- 57-462	AMD-XA	99-11-098	220- 88A-07000	REP-E	99-10-050	222- 16-080	AMD-E	99-16-081
220- 57-462	AMD	99-15-081	220- 88A-08000	NEW-E	99-09-036	222- 16-088	NEW-E	99-07-075
220- 57-465	AMD-XA	99-11-098	220- 88A-08000	REP-E	99-10-050	222- 16-088	NEW-E	99-08-078
220- 57-465	AMD	99-15-081	220- 88A-08000	NEW-E	99-10-050	222- 16-088	NEW-E	99-16-081
220- 57-470	AMD-XA	99-11-098	220- 88A-08000	REP-E	99-16-032	222- 20-010	AMD-C	99-09-078
220- 57-470	AMD	99-15-081	220- 88A-08000	NEW-E	99-16-032	222- 20-015	NEW-C	99-09-078
220- 57-480	AMD-XA	99-11-098	220- 88B-010	REP-E	99-04-053	222- 20-020	AMD-C	99-09-078
220- 57-480	AMD	99-15-081	220- 88B-020	REP-E	99-04-053	222- 20-070	AMD-C	99-09-078
220- 57-495	AMD-XA	99-11-098	220- 88B-030	REP-E	99-04-053	222- 22-010	AMD-C	99-09-078
220- 57-495	AMD	99-15-081	220- 88B-040	REP-E	99-04-053	222- 22-030	AMD-C	99-09-078
220- 57-50200A	NEW-E	99-13-145	220- 88B-050	REP-E	99-04-053	222- 22-035	NEW-C	5
220- 57-505	AMD-XA	99-11-098	220-110-204	AMD-XA	99-05-023	222- 22-040	AMD-C	9
220- 57-505	AMD	99-15-081	220-110-204	AMD	99-10-048	222- 22-050	AMD-C	9
220- 57-50500C	NEW-E	99-08-046	220-110-205	AMD-XA	99-05-023	222- 22-060	AMD-C	9
220- 57-50500C	REP-E	99-12-044	220-110-205	AMD	99-10-048	222- 22-065	NEW-C	99-09-078
220- 57-50500D	REP-E	99-10-049	220-130	AMD-P	99-05-075	222- 22-070	AMD-C	99-09-078
220- 57-50500D	NEW-E	99-10-049	220-130	AMD	99-11-004	222- 22-075	NEW-C	99-09-078
220- 57-50500D	REP-E	99-12-044	220-130-010	AMD-P	99-05-075	222- 22-076	NEW-C	99-09-078
220- 57-50500E	REP-E	99-12-044	220-130-010	AMD	99-11-004	222- 22-090	AMD-C	99-09-078
220- 57-50500E	NEW-E	99-12-044	220-130-020	AMD-P	99-05-075	222- 24-010	AMD-C	99-09-078
220- 57-50500E	REP-E	99-13-130	220-130-020	AMD	99-11-004	222- 24-020	AMD-C	99-09-078
220- 57-50500F	NEW-E	99-13-130	220-130-030	AMD-P	99-05-075	222- 24-030	AMD-C	99-09-078
220- 57-50500F	REP-E	99-13-130	220-130-030	AMD	99-11-004	222- 24-035	AMD-C	99-09-078
220- 57-510	AMD-XA	99-11-098	220-130-040	AMD-P	99-05-075	222- 24-040	AMD-C	99-09-078
220- 57-510	AMD	99-15-081	220-130-040	AMD	99-11-004	222- 24-050	AMD-E	99-07-075
220- 57-51000A	REP-E	99-10-049	220-130-050	AMD-P	99-05-075	222- 24-050	AMD-E	99-08-078
220- 57-51000A	NEW-E	99-10-049	220-130-050	AMD	99-11-004	222- 24-050	AMD-C	99-09-078
220- 57-515	AMD-XA	99-11-098	220-130-060	AMD-P	99-05-075	222- 24-050	AMD-E	99-16-081
220- 57-515	AMD	99-15-081	220-130-060	AMD	99-11-004	222- 24-060	AMD-C	99-09-078
220- 57-51500P	NEW-E	99-10-049	220-130-070	AMD-P	99-05-075	222- 30-010	AMD-C	99-09-078
220- 57-51500P	REP-E	99-10-049	220-130-070	AMD	99-11-004	222- 30-020	AMD-C	99-09-078
220- 57-51500P	REP-E	99-12-046	220-130-080	NEW-P	99-05-075	222- 30-040	AMD-E	99-07-075
220- 57-51500O	REP-E	99-12-046	220-130-080	NEW	99-11-004	222- 30-040	AMD-E	99-08-078
220- 57-51500O	NEW-E	99-12-046	220-140-050	AMD-P	99-13-054	222- 30-040	AMD-E	99-16-081
220- 57-51500O	REP-E	99-13-099	220-140-050	AMD	99-17-096	222- 30-070	AMD-C	99-09-078
220- 57-51500R	NEW-E	99-13-099	222- 08-035	AMD-C	99-09-078	222- 38-020	AMD-C	99-09-078
220- 57-520	AMD-XA	99-11-098	222- 10-020	NEW-E	99-07-075	222- 38-030	AMD-C	99-09-078

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
222- 46-055	NEW-C	99-09-078	226- 20-010	NEW-P	99-13-156	230- 40-564	NEW-P	99-08-093
222- 46-060	AMD-C	99-09-078	226- 20-010	NEW-E	99-13-157	230- 40-566	NEW-P	99-08-093
222- 46-065	AMD-C	99-09-078	226- 20-020	NEW-P	99-13-156	230- 40-568	NEW-P	99-08-093
226- 01-010	NEW-P	99-13-156	226- 20-020	NEW-E	99-13-157	230- 40-600	NEW-P	99-08-093
226- 01-010	NEW-E	99-13-157	226- 20-030	NEW-P	99-13-156	230- 40-610	NEW-P	99-08-093
226- 01-020	NEW-P	99-13-156	226- 20-030	NEW-E	99-13-157	230- 40-800	NEW-P	99-08-093
226- 01-020	NEW-E	99-13-157	226- 20-040	NEW-P	99-13-156	230- 40-810	NEW-P	99-08-093
226- 01-030	NEW-P	99-13-156	226- 20-040	NEW-E	99-13-157	230- 40-815	NEW-P	99-08-093
226- 01-030	NEW-E	99-13-157	226- 20-050	NEW-P	99-13-156	230- 40-820	NEW-P	99-08-093
226- 01-040	NEW-P	99-13-156	226- 20-050	NEW-E	99-13-157	230- 40-825	NEW-P	99-08-093
226- 01-040	NEW-E	99-13-157	226- 20-060	NEW-P	99-13-156	230- 40-830	NEW-P	99-08-093
226- 01-050	NEW-P	99-13-156	226- 20-060	NEW-E	99-13-157	230- 40-833	NEW-P	99-08-093
226- 01-050	NEW-E	99-13-157	230- 02-109	NEW-P	99-08-093	230- 40-835	NEW-P	99-08-093
226- 01-060	NEW-P	99-13-156	230- 02-110	AMD-P	99-08-093	230- 40-840	NEW-P	99-08-093
226- 01-060	NEW-E	99-13-157	230- 02-145	NEW-P	99-08-094	230- 40-845	NEW-P	99-08-093
226- 01-070	NEW-P	99-13-156	230- 02-145	NEW	99-11-078	230- 40-850	NEW-P	99-08-093
226- 01-070	NEW-E	99-13-157	230- 02-380	AMD-P	99-13-206	230- 40-855	NEW-P	99-08-093
226- 02-010	NEW-P	99-13-156	230- 02-400	REP-P	99-08-093	230- 40-860	NEW-P	99-08-093
226- 02-010	NEW-E	99-13-157	230- 02-425	AMD-P	99-08-093	230- 40-865	NEW-P	99-08-093
226- 02-020	NEW-P	99-13-156	230- 04-020	AMD-P	99-13-205	230- 40-870	NEW-P	99-08-093
226- 02-020	NEW-E	99-13-157	230- 04-022	AMD-P	99-08-093	230- 40-875	NEW-P	99-08-093
226- 02-030	NEW-P	99-13-156	230- 04-080	AMD-P	99-13-206	230- 40-880	NEW-P	99-08-093
226- 02-030	NEW-E	99-13-157	230- 04-140	AMD-P	99-08-093	230- 40-885	NEW-P	99-08-093
226- 02-040	NEW-P	99-13-156	230- 04-203	AMD-P	99-08-093	230- 40-890	NEW-P	99-08-093
226- 02-040	NEW-E	99-13-157	230- 04-204	AMD-P	99-08-093	230- 40-900	REP-P	99-08-093
226- 02-040	NEW-P	99-13-156	230- 04-207	NEW-P	99-08-093	230- 50-010	AMD-P	99-08-093
226- 02-050	NEW-E	99-13-157	230- 08-027	NEW-P	99-08-093	230- 60-025	AMD-P	99-13-205
226- 02-050	NEW-P	99-13-156	230- 08-040	AMD-P	99-08-093	232- 12-001	AMD	99-03-029
226- 02-060	NEW-E	99-13-157	230- 08-090	AMD-P	99-08-093	232- 12-001	AMD	99-08-029
226- 02-070	NEW-P	99-13-156	230- 12-050	AMD-P	99-08-093	232- 12-017	AMD	99-08-024
226- 02-070	NEW-E	99-13-157	230- 12-072	NEW-P	99-08-093	232- 12-01701	AMD	99-08-024
226- 02-080	NEW-P	99-13-156	230- 12-345	NEW-P	99-08-093	232- 12-018	AMD	99-08-029
226- 02-080	NEW-E	99-13-157	230- 12-345	NEW	99-12-082	232- 12-024	AMD-P	99-13-194
226- 02-090	NEW-P	99-13-156	230- 20-058	NEW	99-03-103	232- 12-024	AMD	99-17-034
226- 02-090	NEW-E	99-13-157	230- 20-115	AMD-P	99-08-094	232- 12-047	AMD-P	99-05-064
226- 02-100	NEW-P	99-13-156	230- 20-115	AMD	99-11-078	232- 12-047	AMD-W	99-10-112
226- 02-100	NEW-E	99-13-157	230- 20-125	AMD-P	99-08-094	232- 12-054	AMD-P	99-05-064
226- 02-110	NEW-P	99-13-156	230- 20-125	AMD	99-11-078	232- 12-054	AMD-W	99-10-112
226- 02-110	NEW-E	99-13-157	230- 20-230	AMD-P	99-08-094	232- 12-054	AMD-P	99-13-194
226- 12-010	NEW-P	99-13-156	230- 20-230	AMD	99-11-078	232- 12-068	AMD-P	99-13-194
226- 12-010	NEW-E	99-13-157	230- 20-242	AMD-P	99-08-094	232- 12-068	AMD	99-17-034
226- 12-040	NEW-P	99-13-156	230- 20-242	AMD	99-11-078	232- 12-069	REP	99-03-029
226- 12-040	NEW-E	99-13-157	230- 40-010	AMD-P	99-08-093	232- 12-072	NEW	99-03-029
226- 12-080	NEW-P	99-13-156	230- 40-010	AMD	99-13-103	232- 12-072	AMD-P	99-13-054
226- 12-080	NEW-E	99-13-157	230- 40-015	AMD-P	99-08-093	232- 12-072	AMD	99-17-096
226- 16-010	NEW-P	99-13-156	230- 40-030	AMD-P	99-08-093	232- 12-134	AMD-P	99-13-194
226- 16-010	NEW-E	99-13-157	230- 40-050	AMD-P	99-08-093	232- 12-134	AMD	99-17-034
226- 16-020	NEW-P	99-13-156	230- 40-060	REP-P	99-08-093	232- 12-137	REP-P	99-13-194
226- 16-020	NEW-E	99-13-157	230- 40-070	AMD-P	99-08-093	232- 12-137	REP	99-17-034
226- 16-040	NEW-P	99-13-156	230- 40-120	AMD-P	99-08-093	232- 12-141	AMD-P	99-13-194
226- 16-040	NEW-E	99-13-157	230- 40-125	AMD-P	99-08-093	232- 12-141	AMD	99-17-034
226- 16-050	NEW-P	99-13-156	230- 40-125	REP-P	99-09-096	232- 12-157	AMD	99-03-029
226- 16-050	NEW-E	99-13-157	230- 40-125	AMD-P	99-09-096	232- 12-157	REP-P	99-13-119
226- 16-100	NEW-P	99-13-156	230- 40-125	AMD	99-13-102	232- 12-157	REP	99-17-066
226- 16-100	NEW-E	99-13-157	230- 40-130	AMD-P	99-08-093	232- 12-166	AMD	99-03-029
226- 16-110	NEW-P	99-13-156	230- 40-150	REP-P	99-08-093	232- 12-189	AMD	99-03-029
226- 16-110	NEW-E	99-13-157	230- 40-160	REP-P	99-08-093	232- 12-241	REP	99-03-029
226- 16-150	NEW-P	99-13-156	230- 40-200	AMD-P	99-08-093	232- 12-242	AMD-P	99-13-194
226- 16-150	NEW-E	99-13-157	230- 40-225	AMD-P	99-08-093	232- 12-242	AMD-W	99-16-001
226- 16-160	NEW-P	99-13-156	230- 40-400	AMD-P	99-08-093	232- 12-257	AMD-P	99-13-194
226- 16-160	NEW-E	99-13-157	230- 40-550	NEW-P	99-08-093	232- 12-261	AMD-P	99-13-194
226- 16-170	NEW-P	99-13-156	230- 40-552	NEW-P	99-08-093	232- 12-261	AMD	99-17-034
226- 16-170	NEW-E	99-13-157	230- 40-554	NEW-P	99-08-093	232- 12-264	AMD-P	99-13-194
226- 16-180	NEW-P	99-13-156	230- 40-556	NEW-P	99-08-093	232- 12-264	AMD	99-17-034
226- 16-180	NEW-E	99-13-157	230- 40-558	NEW-P	99-08-093	232- 12-291	AMD-P	99-13-194
226- 16-200	NEW-P	99-13-156	230- 40-560	NEW-P	99-08-093	232- 12-291	AMD	99-17-034
226- 16-200	NEW-E	99-13-157	230- 40-562	NEW-P	99-08-093	232- 12-31500F	NEW-E	99-08-063
						232- 12-619	AMD	99-03-029

Table

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
232- 12-619	AMD	99-08-029	232- 28-619001	NEW-E	99-12-002	236- 48-023	REP	99-13-138
232- 12-619	AMD-XA	99-11-098	232- 28-61900J	NEW-E	99-12-001	236- 48-024	AMD-XA	99-10-069
232- 12-619	AMD	99-15-081	232- 28-61900K	NEW-E	99-12-044	236- 48-024	AMD	99-15-070
232- 12-61900D	NEW-E	99-13-058	232- 28-61900K	REP-E	99-12-044	236- 48-025	AMD-XA	99-10-069
232- 12-61900D	REP-E	99-13-058	232- 28-61900K	REP-E	99-13-130	236- 48-025	AMD	99-15-070
232- 12-830	NEW	99-03-029	232- 28-61900L	NEW-E	99-12-019	236- 48-026	REP-XR	99-10-068
232- 16-140	AMD-P	99-13-194	232- 28-61900L	REP-E	99-12-019	236- 48-026	REP	99-13-138
232- 16-140	AMD	99-17-034	232- 28-61900M	NEW-E	99-12-046	236- 48-035	AMD-XA	99-10-069
232- 16-680	REP-P	99-13-194	232- 28-61900M	REP-E	99-12-046	236- 48-035	AMD	99-15-070
232- 16-680	REP	99-17-034	232- 28-61900M	REP-E	99-13-099	236- 48-036	AMD-XA	99-10-069
232- 16-690	AMD-P	99-13-194	232- 28-61900N	NEW-E	99-13-099	236- 48-036	AMD	99-15-070
232- 16-810	AMD-P	99-05-063	232- 28-61900P	NEW-E	99-13-145	236- 48-041	REP-XR	99-10-068
232- 16-810	AMD	99-10-102	232- 32-010	REP-P	99-05-076	236- 48-041	REP	99-13-138
232- 21-101	REP	99-05-024	232- 32-010	REP	99-11-003	236- 48-051	REP-XR	99-10-068
232- 28-02201	AMD-P	99-05-063	232- 32-020	REP-P	99-05-076	236- 48-051	REP	99-13-138
232- 28-02201	AMD	99-10-102	232- 32-020	REP	99-11-003	236- 48-052	REP-XR	99-10-068
232- 28-02203	AMD-P	99-05-063	232- 32-030	REP-P	99-05-076	236- 48-052	REP	99-13-138
232- 28-02203	AMD	99-10-102	232- 32-030	REP	99-11-003	236- 48-061	REP-XR	99-10-068
232- 28-02204	AMD-P	99-05-063	232- 32-040	REP-P	99-05-076	236- 48-061	REP	99-13-138
232- 28-02204	AMD	99-10-102	232- 32-040	REP	99-11-003	236- 48-071	AMD-XA	99-10-069
232- 28-02205	AMD-P	99-05-063	232- 32-050	REP-P	99-05-076	236- 48-071	AMD	99-15-070
232- 28-02205	AMD	99-10-102	232- 32-050	REP	99-11-003	236- 48-079	AMD-XA	99-10-069
232- 28-02240	AMD-P	99-05-063	232- 32-060	REP-P	99-05-076	236- 48-079	AMD	99-15-070
232- 28-02240	AMD	99-10-102	232- 32-060	REP	99-11-003	236- 48-081	REP-XR	99-10-068
232- 28-20401	REP-P	99-13-194	232- 32-070	REP-P	99-05-076	236- 48-081	REP	99-13-138
232- 28-20401	REP	99-17-034	232- 32-070	REP	99-11-003	236- 48-082	REP-XR	99-10-068
232- 28-248	AMD-P	99-05-063	236- 12-065	PREP	99-08-086	236- 48-082	REP	99-13-138
232- 28-248	AMD	99-10-102	236- 12-065	REP-P	99-15-031	236- 48-083	AMD-XA	99-10-069
232- 28-259	AMD-P	99-13-194	236- 12-470	PREP	99-08-086	236- 48-083	AMD	99-15-070
232- 28-259	AMD	99-17-034	236- 12-470	AMD-P	99-15-031	236- 48-084	REP-XR	99-10-068
232- 28-264	AMD-P	99-05-063	236- 12-500	PREP	99-08-086	236- 48-084	REP	99-13-138
232- 28-264	AMD	99-10-102	236- 12-500	AMD-P	99-15-031	236- 48-085	AMD-XA	99-10-069
232- 28-264	AMD-P	99-13-194	236- 20-020	AMD-XA	99-13-167	236- 48-085	AMD	99-15-070
232- 28-264	AMD	99-17-034	236- 20-030	AMD-XA	99-13-167	236- 48-093	REP-XR	99-10-068
232- 28-271	AMD-P	99-05-063	236- 20-040	AMD-XA	99-13-167	236- 48-093	REP	99-13-138
232- 28-271	AMD	99-10-102	236- 47-001	REP	99-06-001	236- 48-094	AMD-XA	99-10-069
232- 28-273	AMD-P	99-05-063	236- 47-002	REP	99-06-001	236- 48-094	AMD	99-15-070
232- 28-273	AMD	99-10-102	236- 47-003	REP	99-06-001	236- 48-096	AMD-XA	99-10-069
232- 28-280	AMD-P	99-05-063	236- 47-004	REP	99-06-001	236- 48-096	AMD	99-15-070
232- 28-280	AMD	99-10-102	236- 47-005	REP	99-06-001	236- 48-097	REP-XR	99-10-068
232- 28-281	AMD-P	99-05-063	236- 47-006	REP	99-06-001	236- 48-097	REP	99-13-138
232- 28-281	AMD	99-10-102	236- 47-007	REP	99-06-001	236- 48-098	AMD-XA	99-10-069
232- 28-281	AMD-P	99-13-194	236- 47-008	REP	99-06-001	236- 48-098	AMD	99-15-070
232- 28-281	AMD	99-17-034	236- 47-009	REP	99-06-001	236- 48-099	AMD-XA	99-10-069
232- 28-28100A	REP-E	99-17-082	236- 47-010	REP	99-06-001	236- 48-099	AMD	99-15-070
232- 28-28100A	NEW-E	99-17-082	236- 47-011	REP	99-06-001	236- 48-101	REP-XR	99-10-068
232- 28-422	REP-P	99-13-194	236- 47-012	REP	99-06-001	236- 48-101	REP	99-13-138
232- 28-422	REP	99-17-034	236- 47-013	REP	99-06-001	236- 48-111	AMD-XA	99-10-069
232- 28-423	NEW-P	99-13-194	236- 47-014	REP	99-06-001	236- 48-111	AMD	99-15-070
232- 28-619	AMD	99-08-029	236- 47-015	REP	99-06-001	236- 48-121	AMD-XA	99-10-069
232- 28-619	AMD-XA	99-11-098	236- 47-016	REP	99-06-001	236- 48-121	AMD	99-15-070
232- 28-619	AMD	99-15-081	236- 47-017	REP	99-06-001	236- 48-122	AMD-XA	99-10-069
232- 28-61900B	NEW-E	99-04-060	236- 48-003	AMD-XA	99-10-069	236- 48-122	AMD	99-15-070
232- 28-61900B	REP-E	99-04-060	236- 48-003	AMD	99-15-070	236- 48-123	AMD-XA	99-10-069
232- 28-61900C	NEW-E	99-06-020	236- 48-005	REP-XR	99-10-068	236- 48-123	AMD	99-15-070
232- 28-61900D	NEW-E	99-07-006	236- 48-005	REP	99-13-138	236- 48-124	AMD-XA	99-10-069
232- 28-61900D	REP-E	99-07-006	236- 48-009	REP-XR	99-10-068	236- 48-124	AMD	99-15-070
232- 28-61900E	NEW-E	99-08-046	236- 48-009	REP	99-13-138	236- 48-132	AMD-XA	99-10-069
232- 28-61900E	REP-E	99-08-046	236- 48-011	AMD-XA	99-10-069	236- 48-132	AMD	99-15-070
232- 28-61900E	REP-E	99-12-044	236- 48-011	AMD	99-15-070	236- 48-141	AMD-XA	99-10-069
232- 28-61900F	NEW-E	99-09-015	236- 48-012	AMD-XA	99-10-069	236- 48-141	AMD	99-15-070
232- 28-61900F	REP-E	99-09-015	236- 48-012	AMD	99-15-070	236- 48-142	AMD-XA	99-10-069
232- 28-61900G	NEW-E	99-10-049	236- 48-013	AMD-XA	99-10-069	236- 48-142	AMD	99-15-070
232- 28-61900G	REP-E	99-10-049	236- 48-013	AMD	99-15-070	236- 48-143	AMD-XA	99-10-069
232- 28-61900G	REP-E	99-12-044	236- 48-021	AMD-XA	99-10-069	236- 48-143	AMD	99-15-070
232- 28-61900H	NEW-E	99-11-044	236- 48-021	AMD	99-15-070	236- 48-151	REP-XR	99-10-068
232- 28-61900H	REP-E	99-11-044	236- 48-023	REP-XR	99-10-068	236- 48-151	REP	99-13-138

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
236-48-152	AMD-XA	99-10-069	245-02-140	DECOD	99-04-049	246-217	AMD	99-13-019
236-48-153	AMD-XA	99-10-069	245-02-145	DECOD	99-04-049	246-217-001	REP-P	99-08-097
236-48-153	AMD	99-15-070	245-02-150	DECOD	99-04-049	246-217-001	REP	99-13-019
236-48-155	REP-XR	99-10-068	245-02-155	DECOD	99-04-049	246-217-002	REP-P	99-08-097
236-48-155	REP	99-13-138	245-02-160	DECOD	99-04-049	246-217-002	REP	99-13-019
236-48-162	REP-XR	99-10-068	245-02-165	DECOD	99-04-049	246-217-005	NEW-P	99-08-097
236-48-162	REP	99-13-138	245-02-170	DECOD	99-04-049	246-217-005	NEW	99-13-019
236-48-163	REP-XR	99-10-068	245-02-175	DECOD	99-04-049	246-217-010	AMD-P	99-08-097
236-48-163	REP	99-13-138	245-02-180	DECOD	99-04-049	246-217-010	AMD	99-13-019
236-48-164	REP-XR	99-10-068	246-05-001	REP	99-03-062	246-217-011	REP-P	99-08-097
236-48-164	REP	99-13-138	246-05-010	REP	99-03-062	246-217-011	REP	99-13-019
236-48-165	AMD-XA	99-10-069	246-05-020	REP	99-03-063	246-217-015	NEW-P	99-08-097
236-48-165	AMD	99-15-070	246-05-030	REP	99-03-062	246-217-015	NEW	99-13-019
236-48-166	AMD-XA	99-10-069	246-08-400	AMD-P	99-10-078	246-217-020	REP-P	99-08-097
236-48-166	AMD	99-15-070	246-08-400	AMD	99-13-083	246-217-020	REP	99-13-019
236-48-167	AMD-XA	99-10-069	246-25	PREP	99-04-050	246-217-025	NEW-P	99-08-097
236-48-167	AMD	99-15-070	246-25-010	RECOD	99-04-049	246-217-025	NEW	99-13-019
236-48-190	AMD-XA	99-10-069	246-25-020	RECOD	99-04-049	246-217-030	REP-P	99-08-097
236-48-190	AMD	99-15-070	246-25-025	RECOD	99-04-049	246-217-030	REP	99-13-019
236-48-230	AMD-XA	99-10-069	246-25-030	RECOD	99-04-049	246-217-035	NEW-P	99-08-097
236-48-230	AMD	99-15-070	246-25-035	RECOD	99-04-049	246-217-035	NEW	99-13-019
236-48-250	AMD-XA	99-10-069	246-25-040	RECOD	99-04-049	246-217-040	REP-P	99-08-097
236-48-250	AMD	99-15-070	246-25-045	RECOD	99-04-049	246-217-040	REP	99-13-019
236-48-251	AMD-XA	99-10-069	246-25-050	RECOD	99-04-049	246-217-045	NEW-P	99-08-097
236-48-251	AMD	99-15-070	246-25-100	RECOD	99-04-049	246-217-045	NEW	99-13-019
236-48-252	AMD-XA	99-10-069	246-25-110	RECOD	99-04-049	246-217-050	REP-P	99-08-097
236-48-252	AMD	99-15-070	246-25-115	RECOD	99-04-049	246-217-050	REP	99-13-019
236-48-253	AMD-XA	99-10-069	246-25-120	RECOD	99-04-049	246-217-060	AMD-P	99-08-097
236-48-253	AMD	99-15-070	246-25-125	RECOD	99-04-049	246-217-060	AMD	99-13-019
236-48-254	REP-XR	99-10-068	246-25-130	RECOD	99-04-049	246-217-070	AMD-P	99-08-097
236-48-254	REP	99-13-138	246-25-131	RECOD	99-04-049	246-217-070	AMD	99-13-019
236-48-300	REP-XR	99-10-068	246-25-135	RECOD	99-04-049	246-220-010	AMD-P	99-12-130
236-48-300	REP	99-13-138	246-25-140	RECOD	99-04-049	246-220-010	AMD	99-15-105
236-49-001	AMD-XA	99-10-069	246-25-145	RECOD	99-04-049	246-220-110	REP-P	99-12-130
236-49-001	AMD	99-15-070	246-25-150	RECOD	99-04-049	246-220-110	REP	99-15-105
236-49-010	AMD-XA	99-10-069	246-25-155	RECOD	99-04-049	246-220-120	REP-P	99-12-130
236-49-010	AMD	99-15-070	246-25-160	RECOD	99-04-049	246-220-120	REP	99-15-105
236-49-020	AMD-XA	99-10-069	246-25-165	RECOD	99-04-049	246-221-005	AMD-P	99-12-130
236-49-020	AMD	99-15-070	246-25-170	RECOD	99-04-049	246-221-005	AMD	99-15-105
236-49-030	REP-XR	99-10-068	246-25-175	RECOD	99-04-049	246-221-160	AMD-P	99-12-130
236-49-030	REP	99-13-138	246-25-180	RECOD	99-04-049	246-221-160	AMD	99-15-105
236-49-040	REP-XR	99-10-068	246-100-016	AMD-P	99-12-083	246-221-170	AMD-P	99-12-130
236-49-040	REP	99-13-138	246-100-016	AMD	99-17-077	246-221-170	AMD	99-15-105
236-49-055	AMD-XA	99-10-069	246-100-036	AMD-P	99-12-083	246-221-260	AMD-P	99-12-130
236-49-055	AMD	99-15-070	246-100-036	AMD	99-17-077	246-221-260	AMD	99-15-105
236-49-060	AMD-XA	99-10-069	246-100-041	AMD-P	99-12-083	246-221-265	AMD	99-05-013
236-49-060	AMD	99-15-070	246-100-041	AMD	99-17-077	246-221-280	AMD	99-05-012
236-49-061	REP-XR	99-10-068	246-100-042	AMD-XA	99-06-091	246-222-030	AMD	99-05-012
236-49-061	REP	99-13-138	246-100-042	AMD	99-11-037	246-231-001	NEW-P	99-12-130
240-10-030	AMD-P	99-08-109	246-100-043	NEW-P	99-12-083	246-231-001	NEW	99-15-105
240-10-030	AMD	99-14-022	246-100-043	NEW	99-17-077	246-231-005	NEW-P	99-12-130
245-02-010	DECOD	99-04-049	246-100-072	AMD-P	99-12-083	246-231-005	NEW	99-15-105
245-02-020	DECOD	99-04-049	246-100-072	AMD	99-17-077	246-231-010	NEW-P	99-12-130
245-02-025	DECOD	99-04-049	246-100-076	AMD-P	99-12-083	246-231-010	NEW	99-15-105
245-02-030	DECOD	99-04-049	246-100-076	AMD	99-17-077	246-231-030	NEW-P	99-12-130
245-02-035	DECOD	99-04-049	246-100-206	AMD-P	99-12-083	246-231-030	NEW	99-15-105
245-02-040	DECOD	99-04-049	246-100-206	AMD	99-17-077	246-231-040	NEW-P	99-12-130
245-02-045	DECOD	99-04-049	246-100-207	AMD-P	99-12-083	246-231-040	NEW	99-15-105
245-02-050	DECOD	99-04-049	246-100-207	AMD	99-17-077	246-231-050	NEW-P	99-12-130
245-02-100	DECOD	99-04-049	246-100-208	AMD-P	99-12-083	246-231-050	NEW	99-15-105
245-02-110	DECOD	99-04-049	246-100-208	AMD	99-17-077	246-231-060	NEW-P	99-12-130
245-02-115	DECOD	99-04-049	246-100-208	AMD	99-17-077	246-231-060	NEW	99-15-105
245-02-120	DECOD	99-04-049	246-100-209	AMD-P	99-12-083	246-231-070	NEW-P	99-12-130
245-02-125	DECOD	99-04-049	246-100-209	AMD	99-17-077	246-231-070	NEW	99-15-105
245-02-130	DECOD	99-04-049	246-100-236	AMD-P	99-12-083	246-231-080	NEW-P	99-12-130
245-02-130	DECOD	99-04-049	246-100-236	AMD	99-17-077	246-231-080	NEW	99-15-105
245-02-131	DECOD	99-04-049	246-205-990	AMD-P	99-07-120	246-231-090	NEW-P	99-12-130
245-02-135	DECOD	99-04-049	246-205-990	AMD	99-12-022	246-231-090	NEW	99-15-105

Table

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-231-090	NEW	99-15-105	246-290-240	REP	99-07-021	246-318-160	REP	99-04-052
246-231-100	NEW-P	99-12-130	246-290-250	AMD	99-07-021	246-318-170	REP	99-04-052
246-231-100	NEW	99-15-105	246-290-300	AMD	99-07-021	246-318-180	REP	99-04-052
246-231-110	NEW-P	99-12-130	246-290-310	AMD	99-07-021	246-318-190	REP	99-04-052
246-231-110	NEW	99-15-105	246-290-320	AMD	99-07-021	246-318-200	REP	99-04-052
246-231-120	NEW-P	99-12-130	246-290-330	REP	99-07-021	246-318-210	REP	99-04-052
246-231-120	NEW	99-15-105	246-290-410	REP	99-07-021	246-318-220	REP	99-04-052
246-231-130	NEW-P	99-12-130	246-290-415	NEW	99-07-021	246-318-230	REP	99-04-052
246-231-130	NEW	99-15-105	246-290-416	NEW	99-07-021	246-318-240	REP	99-04-052
246-231-140	NEW-P	99-12-130	246-290-420	AMD	99-07-021	246-318-250	REP	99-04-052
246-231-140	NEW	99-15-105	246-290-430	REP	99-07-021	246-318-260	REP	99-04-052
246-231-200	NEW-P	99-12-130	246-290-440	REP	99-07-021	246-318-270	REP	99-04-052
246-231-200	NEW	99-15-105	246-290-451	NEW	99-07-021	246-318-280	REP	99-04-052
246-232-001	AMD-P	99-12-130	246-290-455	NEW	99-07-021	246-318-290	REP	99-04-052
246-232-001	AMD	99-15-105	246-290-460	AMD	99-07-021	246-318-300	REP	99-04-052
246-232-040	AMD-P	99-12-130	246-290-470	AMD	99-07-021	246-318-310	REP	99-04-052
246-232-040	AMD	99-15-105	246-290-480	AMD	99-07-021	246-318-320	REP	99-04-052
246-232-060	AMD-P	99-12-130	246-290-490	AMD	99-07-021	246-318-330	REP	99-04-052
246-232-060	AMD	99-15-105	246-290-495	NEW	99-07-021	246-318-350	REP	99-04-052
246-232-090	AMD-P	99-12-130	246-290-601	AMD	99-07-021	246-318-370	REP	99-04-052
246-232-090	AMD	99-15-105	246-290-610	REP	99-07-021	246-318-380	REP	99-04-052
246-235-075	AMD-P	99-12-130	246-290-620	AMD	99-07-021	246-318-390	REP	99-04-052
246-235-075	AMD	99-15-105	246-290-630	AMD	99-07-021	246-318-400	REP	99-04-052
246-243-040	AMD	99-05-012	246-290-630	AMD	99-10-076	246-318-420	REP	99-04-052
246-243-090	AMD	99-05-012	246-290-632	AMD	99-07-021	246-318-440	REP	99-04-052
246-244-040	AMD-P	99-12-130	246-290-634	AMD	99-07-021	246-318-450	REP	99-04-052
246-244-040	AMD	99-15-105	246-290-636	AMD	99-07-021	246-318-500	REP	99-04-052
246-244-060	AMD-P	99-12-130	246-290-638	AMD	99-07-021	246-318-510	REP	99-04-052
246-244-060	AMD	99-15-105	246-290-640	AMD	99-07-021	246-318-520	REP	99-04-052
246-254-053	AMD-P	99-09-099	246-290-650	AMD	99-07-021	246-318-530	REP	99-04-052
246-254-053	AMD	99-13-085	246-290-652	AMD	99-07-021	246-318-540	REP	99-04-052
246-254-070	AMD-P	99-07-120	246-290-654	AMD	99-07-021	246-318-550	REP	99-04-052
246-254-070	AMD	99-12-022	246-290-660	AMD	99-07-021	246-318-560	REP	99-04-052
246-254-080	AMD-P	99-07-120	246-290-662	AMD	99-07-021	246-318-570	REP	99-04-052
246-254-080	AMD	99-12-022	246-290-664	AMD	99-07-021	246-318-580	REP	99-04-052
246-254-090	AMD-P	99-07-120	246-290-666	AMD	99-07-021	246-318-590	REP	99-04-052
246-254-090	AMD	99-12-022	246-290-668	AMD	99-07-021	246-318-600	REP	99-04-052
246-254-100	AMD-P	99-07-120	246-290-670	AMD	99-07-021	246-318-610	REP	99-04-052
246-254-100	AMD	99-12-022	246-290-672	AMD	99-07-021	246-318-620	REP	99-04-052
246-282-990	AMD-P	99-07-120	246-290-674	AMD	99-07-021	246-318-630	REP	99-04-052
246-282-990	AMD	99-12-022	246-290-676	AMD	99-07-021	246-318-640	REP	99-04-052
246-290-001	AMD	99-07-021	246-290-678	AMD	99-07-021	246-318-650	REP	99-04-052
246-290-002	NEW	99-07-021	246-290-686	AMD	99-07-021	246-318-660	REP	99-04-052
246-290-010	AMD	99-07-021	246-290-690	AMD	99-07-021	246-318-670	REP	99-04-052
246-290-020	AMD	99-07-021	246-290-691	NEW	99-07-021	246-318-680	REP	99-04-052
246-290-025	AMD	99-07-021	246-290-692	AMD	99-07-021	246-318-690	REP	99-04-052
246-290-030	AMD	99-07-021	246-290-694	AMD	99-07-021	246-318-700	REP	99-04-052
246-290-035	NEW	99-07-021	246-290-696	AMD	99-07-021	246-318-710	REP	99-04-052
246-290-040	AMD	99-07-021	246-290-990	AMD-P	99-07-120	246-318-720	REP	99-04-052
246-290-050	AMD	99-07-021	246-290-990	AMD	99-12-022	246-318-730	REP	99-04-052
246-290-060	AMD	99-07-021	246-292-160	AMD-P	99-07-120	246-318-740	REP	99-04-052
246-290-100	AMD	99-07-021	246-292-160	AMD	99-12-022	246-318-750	REP	99-04-052
246-290-105	NEW	99-07-021	246-310-990	PREP	99-05-011	246-318-760	REP	99-04-052
246-290-110	AMD	99-07-021	246-316-990	PREP-W	99-04-048	246-318-770	REP	99-04-052
246-290-115	REP	99-07-021	246-318-010	REP	99-04-052	246-318-780	REP	99-04-052
246-290-120	AMD	99-07-021	246-318-013	REP	99-04-052	246-318-790	REP	99-04-052
246-290-125	NEW	99-07-021	246-318-015	REP	99-04-052	246-318-800	REP	99-04-052
246-290-130	AMD	99-07-021	246-318-017	REP	99-04-052	246-318-810	REP	99-04-052
246-290-132	NEW	99-07-021	246-318-020	REP	99-04-052	246-318-820	REP	99-04-052
246-290-135	AMD	99-07-021	246-318-025	REP	99-04-052	246-318-830	REP	99-04-052
246-290-140	AMD	99-07-021	246-318-030	REP	99-04-052	246-318-840	REP	99-04-052
246-290-200	AMD	99-07-021	246-318-033	REP	99-04-052	246-318-850	REP	99-04-052
246-290-220	AMD	99-07-021	246-318-035	REP	99-04-052	246-318-860	REP	99-04-052
246-290-221	NEW	99-07-021	246-318-040	REP	99-04-052	246-318-870	REP	99-04-052
246-290-222	NEW	99-07-021	246-318-042	REP	99-04-052	246-318-990	REP	99-04-052
246-290-230	AMD	99-07-021	246-318-150	REP	99-04-052	246-318-99902	REP	99-04-052
246-290-235	NEW	99-07-021	246-318-155	REP	99-04-052	246-318-99910	REP	99-04-052

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-320-001	NEW	99-04-052	246-358-640	NEW-P	99-08-098	246-359-760	NEW	99-03-065
246-320-010	NEW	99-04-052	246-358-640	NEW	99-12-006	246-359-800	NEW	99-03-065
246-320-025	NEW	99-04-052	246-358-650	NEW-P	99-08-098	246-359-990	NEW	99-03-065
246-320-045	NEW	99-04-052	246-358-650	NEW	99-12-006	246-360-990	PREP	99-10-077
246-320-065	NEW	99-04-052	246-358-660	NEW-P	99-08-098	246-560-001	AMD	99-03-043
246-320-085	NEW	99-04-052	246-358-660	NEW	99-12-006	246-560-002	NEW	99-03-043
246-320-105	NEW	99-04-052	246-358-670	NEW-P	99-08-098	246-560-010	AMD	99-03-043
246-320-125	NEW	99-04-052	246-358-670	NEW	99-12-006	246-560-011	NEW	99-03-043
246-320-145	NEW	99-04-052	246-358-680	NEW-P	99-08-098	246-560-025	NEW	99-03-043
246-320-165	NEW	99-04-052	246-358-680	NEW	99-12-006	246-560-035	NEW	99-03-043
246-320-185	NEW	99-04-052	246-359-001	NEW	99-03-065	246-560-040	AMD	99-03-043
246-320-205	NEW	99-04-052	246-359-005	NEW	99-03-065	246-560-045	NEW	99-03-043
246-320-225	NEW	99-04-052	246-359-010	NEW	99-03-065	246-560-050	AMD	99-03-043
246-320-245	NEW	99-04-052	246-359-020	NEW	99-03-065	246-560-060	AMD	99-03-043
246-320-265	NEW	99-04-052	246-359-030	NEW	99-03-065	246-560-065	NEW	99-03-043
246-320-285	NEW	99-04-052	246-359-040	NEW	99-03-065	246-560-070	REP	99-03-043
246-320-305	NEW	99-04-052	246-359-050	NEW	99-03-065	246-560-075	NEW	99-03-043
246-320-325	NEW	99-04-052	246-359-060	NEW	99-03-065	246-560-077	NEW	99-03-043
246-320-345	NEW	99-04-052	246-359-070	NEW	99-03-065	246-560-085	NEW	99-03-043
246-320-365	NEW	99-04-052	246-359-080	NEW	99-03-065	246-562	PREP	99-15-101
246-320-385	NEW	99-04-052	246-359-090	NEW	99-03-065	246-650-990	AMD-P	99-16-115
246-320-405	NEW	99-04-052	246-359-100	NEW	99-03-065	246-650-991	NEW-P	99-16-115
246-320-500	NEW	99-04-052	246-359-110	NEW	99-03-065	246-760	PREP	99-11-030
246-320-505	NEW	99-04-052	246-359-120	NEW	99-03-065	246-762	PREP	99-11-031
246-320-515	NEW	99-04-052	246-359-130	NEW	99-03-065	246-790	PREP	99-13-082
246-320-525	NEW	99-04-052	246-359-140	NEW	99-03-065	246-802-990	AMD-P	99-02-057
246-320-535	NEW	99-04-052	246-359-150	NEW	99-03-065	246-802-990	AMD	99-08-101
246-320-545	NEW	99-04-052	246-359-160	NEW	99-03-065	246-808-101	REP-XR	99-03-061
246-320-555	NEW	99-04-052	246-359-170	NEW	99-03-065	246-808-301	REP-XR	99-03-061
246-320-565	NEW	99-04-052	246-359-180	NEW	99-03-065	246-808-320	REP-XR	99-03-061
246-320-575	NEW	99-04-052	246-359-200	NEW	99-03-065	246-808-330	REP-XR	99-03-061
246-320-585	NEW	99-04-052	246-359-210	NEW	99-03-065	246-808-340	REP-XR	99-03-061
246-320-595	NEW	99-04-052	246-359-220	NEW	99-03-065	246-808-350	REP-XR	99-03-061
246-320-605	NEW	99-04-052	246-359-230	NEW	99-03-065	246-808-360	REP-XR	99-03-061
246-320-615	NEW	99-04-052	246-359-240	NEW	99-03-065	246-808-370	REP-XR	99-03-061
246-320-625	NEW	99-04-052	246-359-250	NEW	99-03-065	246-808-380	REP-XR	99-03-061
246-320-635	NEW	99-04-052	246-359-300	NEW	99-03-065	246-808-390	REP-XR	99-03-061
246-320-645	NEW	99-04-052	246-359-310	NEW	99-03-065	246-808-640	REP-XR	99-03-061
246-320-655	NEW	99-04-052	246-359-320	NEW	99-03-065	246-808-990	AMD-P	99-02-057
246-320-665	NEW	99-04-052	246-359-330	NEW	99-03-065	246-808-990	AMD	99-08-101
246-320-675	NEW	99-04-052	246-359-340	NEW	99-03-065	246-810-990	AMD-P	99-02-057
246-320-685	NEW	99-04-052	246-359-350	NEW	99-03-065	246-810-990	AMD	99-08-101
246-320-695	NEW	99-04-052	246-359-400	NEW	99-03-065	246-811-010	NEW-P	99-09-100
246-320-705	NEW	99-04-052	246-359-405	NEW	99-03-065	246-811-010	NEW	99-13-084
246-320-715	NEW	99-04-052	246-359-410	NEW	99-03-065	246-811-030	NEW-P	99-09-100
246-320-725	NEW	99-04-052	246-359-420	NEW	99-03-065	246-811-030	NEW	99-13-084
246-320-735	NEW	99-04-052	246-359-430	NEW	99-03-065	246-811-045	NEW-P	99-09-100
246-320-745	NEW	99-04-052	246-359-440	NEW	99-03-065	246-811-045	NEW	99-13-084
246-320-755	NEW	99-04-052	246-359-500	NEW	99-03-065	246-811-046	NEW-P	99-09-100
246-320-765	NEW	99-04-052	246-359-510	NEW	99-03-065	246-811-046	NEW	99-13-084
246-320-775	NEW	99-04-052	246-359-520	NEW	99-03-065	246-811-047	NEW-P	99-09-100
246-320-785	NEW	99-04-052	246-359-530	NEW	99-03-065	246-811-047	NEW	99-13-084
246-320-795	NEW	99-04-052	246-359-540	NEW	99-03-065	246-811-048	NEW-P	99-09-100
246-320-805	NEW	99-04-052	246-359-550	NEW	99-03-065	246-811-048	NEW	99-13-084
246-320-815	NEW	99-04-052	246-359-560	NEW	99-03-065	246-811-049	NEW-P	99-09-100
246-320-990	NEW	99-04-052	246-359-565	NEW	99-03-065	246-811-049	NEW	99-13-084
246-320-99902	NEW	99-04-052	246-359-570	NEW	99-03-065	246-811-070	NEW-P	99-09-100
246-358	PREP	99-15-108	246-359-575	NEW	99-03-065	246-811-070	NEW	99-13-084
246-358-025	AMD-E	99-10-096	246-359-580	NEW	99-03-065	246-811-075	NEW-P	99-09-100
246-358-600	NEW-P	99-08-098	246-359-590	NEW	99-03-065	246-811-075	NEW	99-13-084
246-358-600	NEW	99-12-006	246-359-600	NEW	99-03-065	246-811-080	NEW-P	99-09-100
246-358-610	NEW-P	99-08-098	246-359-700	NEW	99-03-065	246-811-080	NEW	99-13-084
246-358-610	NEW	99-12-006	246-359-710	NEW	99-03-065	246-811-990	NEW-P	99-09-100
246-358-620	NEW-P	99-08-098	246-359-720	NEW	99-03-065	246-811-990	NEW	99-13-084
246-358-620	NEW	99-12-006	246-359-730	NEW	99-03-065	246-817-990	AMD-P	99-02-057
246-358-630	NEW-P	99-08-098	246-359-740	NEW	99-03-065	246-817-990	AMD	99-08-101
246-358-630	NEW	99-12-006	246-359-750	NEW	99-03-065	246-822-990	AMD-P	99-02-057

TABLE

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-822-990	AMD	99-08-101	246-851-270	REP	99-16-047	250-20-041	AMD	99-16-015
246-828-045	NEW	99-08-102	246-851-340	REP	99-16-047	250-61-060	AMD	99-06-022
246-828-061	NEW-P	99-11-036	246-851-360	REP	99-16-047	250-61-090	AMD	99-06-021
246-828-105	AMD-XA	99-08-096	246-851-990	AMD-P	99-02-057	250-79	PREP	99-10-070
246-828-110	REP	99-07-020	246-851-990	AMD	99-08-101	250-79-030	NEW-E	99-14-034
246-828-120	REP	99-07-020	246-887-160	AMD-XA	99-16-116	250-79-030	NEW-P	99-15-084
246-828-130	REP	99-07-020	246-915-990	AMD-P	99-02-057	251-01-014	NEW-P	99-02-054
246-828-140	REP	99-07-020	246-915-990	AMD	99-08-101	251-01-014	NEW	99-05-042
246-828-150	REP	99-07-020	246-918-115	NEW-P	99-07-121	251-01-015	AMD-P	99-02-054
246-828-160	REP	99-07-020	246-918-116	NEW-P	99-07-121	251-01-015	AMD	99-05-042
246-828-170	REP	99-07-020	246-918-990	AMD-P	99-06-093	251-01-040	AMD-P	99-02-054
246-828-180	REP	99-07-020	246-918-990	AMD	99-13-087	251-01-040	AMD	99-05-042
246-828-190	REP	99-07-020	246-919-630	NEW-P	99-07-121	251-01-190	AMD-P	99-02-054
246-828-200	REP	99-07-020	246-919-640	NEW-P	99-07-121	251-01-190	AMD	99-05-042
246-828-210	REP	99-07-020	246-922-010	AMD-P	99-08-100	251-01-330	REP-P	99-02-054
246-828-230	REP	99-07-020	246-922-010	AMD	99-14-074	251-01-330	REP	99-05-042
246-828-240	REP	99-07-020	246-922-090	REP-P	99-08-100	251-01-345	AMD-P	99-16-101
246-828-250	REP	99-07-020	246-922-090	REP	99-14-074	251-01-400	AMD-P	99-02-054
246-828-260	REP	99-07-020	246-922-100	AMD-P	99-08-100	251-01-400	AMD	99-05-042
246-828-280	REP-XR	99-16-046	246-922-100	AMD	99-14-074	251-01-420	REP-P	99-02-054
246-828-290	AMD	99-08-103	246-922-300	AMD-P	99-15-104	251-01-420	REP	99-05-042
246-828-310	REP	99-07-020	246-922-310	AMD-P	99-15-104	251-01-435	AMD-P	99-13-106
246-828-340	REP	99-07-019	246-924-180	AMD-P	99-09-101	251-01-440	AMD-P	99-02-054
246-830-990	AMD-P	99-02-057	246-924-180	AMD	99-14-075	251-01-440	AMD	99-05-042
246-830-990	AMD	99-08-101	246-924-230	AMD-P	99-09-101	251-11-130	AMD-P	99-13-106
246-834-050	NEW	99-03-064	246-924-230	AMD	99-14-075	251-17-090	AMD-P	99-02-054
246-834-060	AMD	99-03-064	246-924-240	AMD-P	99-09-101	251-17-090	AMD	99-05-042
246-834-070	AMD	99-03-064	246-924-240	AMD	99-14-075	251-19-050	AMD-P	99-13-106
246-834-080	AMD	99-03-064	246-924-250	AMD-P	99-09-101	251-19-060	AMD-P	99-13-106
246-834-990	PREP	99-06-090	246-924-250	AMD	99-14-075	251-19-180	NEW-P	99-16-102
246-838-040	REP	99-08-104	246-924-300	AMD-P	99-09-101	251-20-020	AMD-P	99-16-101
246-840	PREP	99-11-033	246-924-300	AMD	99-14-075	251-20-030	AMD-P	99-16-101
246-840-010	PREP	99-11-032	246-924-330	AMD-P	99-09-101	251-23-010	AMD-P	99-02-054
246-840-020	AMD-P	99-06-092	246-924-330	AMD	99-14-075	251-23-010	AMD	99-05-042
246-840-020	AMD	99-10-079	246-924-340	REP-P	99-09-101	251-23-030	AMD-P	99-02-054
246-840-020	PREP	99-11-032	246-924-340	REP	99-14-075	251-23-030	AMD	99-05-042
246-840-050	AMD-P	99-08-099	246-924-990	AMD-P	99-02-057	251-23-040	AMD-P	99-02-054
246-840-050	AMD	99-13-086	246-924-990	AMD	99-08-101	251-23-040	AMD	99-05-042
246-840-070	AMD-P	99-08-099	246-926-990	AMD-P	99-02-057	251-23-050	AMD-P	99-02-054
246-840-070	AMD	99-13-086	246-926-990	AMD	99-08-101	251-23-050	AMD	99-05-042
246-840-090	AMD-P	99-08-099	246-928-990	AMD-P	99-02-057	251-23-060	AMD-P	99-02-054
246-840-090	AMD	99-13-086	246-928-990	AMD	99-08-101	251-23-060	AMD	99-05-042
246-840-125	PREP	99-03-066	246-930-330	PREP	99-14-001	251-24-030	AMD-P	99-02-054
246-840-565	PREP	99-11-032	246-930-499	REP	99-07-018	251-24-030	AMD	99-05-042
246-840-740	NEW	99-04-051	246-930-990	AMD-P	99-02-057	251-24-030	AMD-P	99-13-105
246-840-760	PREP	99-11-032	246-930-990	AMD	99-08-101	251-24-040	AMD-W	99-05-058
246-840-840	PREP	99-14-002	246-935-040	PREP	99-15-103	260-24-560	AMD	99-05-048
246-840-850	PREP	99-14-002	246-935-050	PREP	99-15-103	260-44-110	AMD-P	99-02-082
246-840-860	PREP	99-14-002	246-935-060	PREP	99-15-103	260-44-110	AMD	99-05-049
246-840-870	PREP	99-14-002	246-935-140	REP-XR	99-02-080	260-44-120	AMD-P	99-02-082
246-840-880	PREP	99-14-002	246-935-140	REP	99-14-076	260-44-120	AMD	99-05-049
246-840-890	PREP	99-14-002	248-554-001	PREP	99-17-058	260-48-600	AMD-P	99-02-081
246-840-900	PREP	99-14-002	248-554-005	PREP	99-17-058	260-48-600	AMD	99-06-026
246-840-920	PREP	99-11-032	248-554-010	PREP	99-17-058	260-48-620	AMD-P	99-02-081
246-841-990	PREP	99-16-114	248-554-015	PREP	99-17-058	260-48-620	AMD	99-06-026
246-843-060	REP	99-03-069	248-554-018	PREP	99-17-058	260-48-700	NEW-P	99-02-081
246-843-200	REP	99-03-068	248-554-020	PREP	99-17-058	260-48-700	NEW	99-06-026
246-843-220	REP	99-03-067	248-554-030	PREP	99-17-058	260-48-710	NEW-P	99-02-081
246-843-225	REP	99-03-067	250-20-001	AMD-P	99-10-074	260-48-710	NEW	99-06-026
246-845-990	AMD-P	99-02-057	250-20-001	AMD	99-16-015	260-48-720	NEW-P	99-02-081
246-845-990	AMD	99-08-101	250-20-011	AMD-P	99-10-074	260-48-720	NEW	99-06-026
246-847-990	AMD-P	99-02-057	250-20-011	AMD	99-16-015	260-48-910	NEW-P	99-02-081
246-847-990	AMD	99-08-101	250-20-021	AMD-P	99-10-074	260-48-910	NEW	99-06-026
246-849-990	AMD-P	99-02-057	250-20-021	AMD	99-16-015	260-52-070	AMD	99-05-047
246-849-990	AMD	99-08-101	250-20-031	AMD-P	99-10-074	260-75	PREP	99-03-014
246-850-060	NEW-P	99-03-083	250-20-031	AMD	99-16-015	275-27	PREP	99-10-063
246-850-060	NEW	99-07-122	250-20-041	AMD-P	99-10-074	275-27-020	AMD	99-04-071

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
275- 27-020	AMD-P	99-15-043	292-100-005	NEW	99-06-073	296- 17-615	AMD-P	99-12-115
275- 27-020	DECOD-P	99-15-043	292-100-006	NEW	99-06-073	296- 17-647	AMD-P	99-12-115
275- 27-180	NEW	99-04-071	292-100-007	NEW	99-06-073	296- 17-649	AMD-P	99-12-115
275- 27-185	NEW	99-04-071	292-100-010	AMD	99-06-073	296- 17-653	AMD-P	99-12-115
275- 27-190	NEW	99-04-071	292-100-020	AMD	99-06-073	296- 17-675	AMD-P	99-12-115
275- 27-191	NEW	99-04-071	292-100-030	AMD	99-06-073	296- 17-678	AMD-P	99-12-115
275- 27-192	NEW	99-04-071	292-100-040	AMD	99-06-073	296- 17-679	AMD-P	99-12-115
275- 27-193	NEW	99-04-071	292-100-050	AMD	99-06-073	296- 17-686	AMD-P	99-12-115
275- 27-194	NEW	99-04-071	292-100-060	AMD	99-06-073	296- 17-693	AMD-P	99-12-115
275- 27-195	NEW	99-04-071	292-100-070	AMD	99-06-073	296- 17-698	AMD-P	99-12-115
275- 27-196	NEW	99-04-071	292-100-080	AMD	99-06-073	296- 17-699	AMD-P	99-12-115
275- 27-197	NEW	99-04-071	292-100-090	AMD	99-06-073	296- 17-700	AMD-P	99-12-115
275- 27-198	NEW	99-04-071	292-100-100	AMD	99-06-073	296- 17-703	AMD-P	99-12-115
275- 27-199	NEW	99-04-071	292-100-105	NEW	99-06-073	296- 17-704	AMD-P	99-12-115
275- 27-200	NEW	99-04-071	292-100-110	AMD	99-06-073	296- 17-706	AMD-P	99-12-115
275- 27-202	NEW	99-04-071	292-100-120	AMD	99-06-073	296- 17-707	AMD-P	99-12-115
275- 27-204	NEW	99-04-071	292-100-130	AMD	99-06-073	296- 17-708	AMD-P	99-12-115
275- 27-211	NEW	99-04-071	292-100-140	AMD	99-06-073	296- 17-709	AMD-P	99-12-115
275- 27-212	NEW	99-04-071	292-100-150	AMD	99-06-073	296- 17-710	AMD-P	99-12-115
275- 27-213	NEW	99-04-071	292-100-160	AMD	99-06-073	296- 17-711	AMD-P	99-12-115
275- 30-010	AMD	99-03-077	292-100-170	AMD	99-06-073	296- 17-712	AMD-P	99-12-115
275- 30-030	AMD	99-03-077	292-100-180	AMD	99-06-073	296- 17-713	AMD-P	99-12-115
275- 30-040	AMD	99-03-077	292-100-190	AMD	99-06-073	296- 17-717	AMD-P	99-12-115
275- 30-050	REP	99-03-077	292-100-200	AMD	99-06-073	296- 17-719	AMD-P	99-12-115
275- 30-060	AMD	99-03-077	292-100-210	NEW	99-06-073	296- 17-72202	AMD-P	99-12-115
275- 30-070	AMD	99-03-077	296- 13	PREP	99-17-115	296- 17-764	AMD-P	99-12-115
275- 30-080	REP	99-03-077	296- 14	PREP	99-10-025	296- 17-87304	AMD-P	99-12-115
275- 59	PREP	99-14-065	296- 14-100	AMD-P	99-13-201	296- 17-900	AMD-E	99-04-106
284- 07-050	AMD-XA	99-11-101	296- 14-400	AMD-P	99-13-201	296- 17-900	AMD-P	99-12-115
284- 07-050	AMD	99-16-035	296- 14-410	AMD-P	99-13-201	296- 17-90120	AMD-P	99-12-115
284- 23-300	PREP	99-13-199	296- 14-420	AMD-P	99-13-201	296- 20	PREP	99-12-114
284- 23-310	PREP	99-13-199	296- 17	PREP	99-05-051	296- 20	PREP	99-13-204
284- 23-320	PREP	99-13-199	296- 17	PREP	99-07-099	296- 20-01002	PREP	99-16-111
284- 23-330	PREP	99-13-199	296- 17	PREP	99-07-100	296- 20-02700	NEW-P	99-13-202
284- 23-340	PREP	99-13-199	296- 17	PREP	99-13-203	296- 20-02701	NEW-P	99-13-202
284- 23-350	PREP	99-13-199	296- 17-31007	AMD-P	99-12-115	296- 20-02702	NEW-P	99-13-202
284- 23-360	PREP	99-13-199	296- 17-31012	AMD-P	99-12-115	296- 20-02703	NEW-P	99-13-202
284- 23-370	PREP	99-13-199	296- 17-31013	AMD-P	99-12-115	296- 20-02704	NEW-P	99-13-202
284- 43	AMD-C	99-03-037	296- 17-31021	AMD-P	99-12-115	296- 20-02705	NEW-P	99-13-202
284- 43	AMD-C	99-03-038	296- 17-35201	AMD-P	99-12-115	296- 20-28850	NEW-P	99-13-202
284- 43	PREP	99-13-198	296- 17-35203	AMD-P	99-12-115	296- 20-02135	AMD-P	99-05-079
284- 43-130	AMD-P	99-03-006	296- 17-505	AMD-P	99-12-115	296- 20-135	AMD	99-10-043
284- 43-130	AMD-P	99-03-007	296- 17-50603	AMD-P	99-12-115	296- 23	PREP	99-12-114
284- 43-130	AMD-W	99-16-073	296- 17-50910	AMD-P	99-12-115	296- 23-220	AMD-P	99-05-079
284- 43-130	AMD-P	99-16-106	296- 17-50917	AMD-P	99-12-115	296- 23-220	AMD	99-10-043
284- 43-205	NEW-P	99-11-102	296- 17-519	AMD-P	99-12-115	296- 23-230	AMD-P	99-05-079
284- 43-205	NEW-C	99-13-045	296- 17-52102	AMD-P	99-12-115	296- 23-230	AMD	99-10-043
284- 43-205	NEW	99-16-036	296- 17-52106	AMD-P	99-12-115	296- 23A	PREP	99-12-114
284- 43-320	AMD-P	99-12-106	296- 17-52108	AMD-P	99-12-115	296- 24	PREP	99-02-083
284- 43-330	AMD-P	99-12-106	296- 17-52109	AMD-P	99-12-115	296- 24	PREP	99-04-057
284- 43-340	REP-P	99-12-106	296- 17-52110	AMD-P	99-12-115	296- 24	PREP	99-08-070
284- 43-350	NEW-P	99-12-106	296- 17-52111	AMD-P	99-12-115	296- 24	PREP	99-12-037
284- 43-360	NEW-P	99-12-106	296- 17-52113	AMD-P	99-12-115	296- 24-040	AMD-P	99-10-072
284- 43-370	NEW-P	99-12-106	296- 17-532	AMD-P	99-12-115	296- 24-040	AMD	99-17-093
284- 43-399	NEW-P	99-12-106	296- 17-53802	AMD-P	99-12-115	296- 24-07501	AMD	99-10-071
284- 43-810	NEW-P	99-03-006	296- 17-53805	AMD-P	99-12-115	296- 24-12002	AMD-XA	99-12-089
284- 43-810	NEW-P	99-03-007	296- 17-539	AMD-P	99-12-115	296- 24-12002	AMD	99-17-094
284- 43-810	NEW-W	99-16-073	296- 17-544	AMD-P	99-12-115	296- 24-205	AMD	99-12-091
284- 43-810	NEW-P	99-16-106	296- 17-545	AMD-P	99-12-115	296- 24-20501	AMD	99-12-091
284- 53-005	NEW-P	99-11-103	296- 17-552	AMD-P	99-12-115	296- 24-20501	AMD-XA	99-13-165
284- 53-005	NEW	99-16-005	296- 17-564	AMD-P	99-12-115	296- 24-20503	AMD	99-12-091
284- 53-010	AMD-P	99-11-103	296- 17-57603	AMD-P	99-12-115	296- 24-20503	AMD-XA	99-13-165
284- 53-010	AMD	99-16-005	296- 17-580	AMD-P	99-12-115	296- 24-20505	AMD	99-12-091
284- 91-060	NEW-P	99-14-085	296- 17-581	AMD-P	99-12-115	296- 24-20505	AMD-XA	99-13-165
286- 26-100	PREP	99-08-092	296- 17-583	AMD-P	99-12-115	296- 24-20507	AMD	99-12-091
286- 26-100	AMD-P	99-08-114	296- 17-58502	AMD-P	99-12-115	296- 24-20507	AMD-XA	99-13-165
286- 26-100	AMD	99-16-009	296- 17-58505	REP-P	99-12-115	296- 24-20509	AMD	99-12-091

Table

TABLE



Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-24-20509	AMD-XA	99-13-165	296-28	PREP	99-02-083	296-45-325	AMD	99-09-080
296-24-20511	AMD	99-12-091	296-30-020	AMD	99-07-004	296-45-455	AMD-XA	99-04-078
296-24-20511	AMD-XA	99-13-165	296-30-025	REP	99-07-004	296-45-455	AMD	99-09-080
296-24-20513	AMD	99-12-091	296-30-060	AMD	99-07-004	296-45-901	AMD-XA	99-04-078
296-24-20513	AMD-XA	99-13-165	296-30-080	AMD-XA	99-16-112	296-45-901	AMD	99-09-080
296-24-20515	AMD	99-12-091	296-30-081	AMD	99-07-004	296-46-090	AMD	99-05-052
296-24-20515	AMD-XA	99-13-165	296-30-081	AMD-XA	99-16-112	296-46-23040	AMD	99-05-052
296-24-20517	AMD	99-12-091	296-30-085	NEW-XA	99-16-112	296-46-370	AMD	99-05-052
296-24-20517	AMD-XA	99-13-165	296-30-090	NEW-XA	99-16-112	296-46-495	AMD	99-05-052
296-24-20519	AMD	99-12-091	296-30-095	NEW-XA	99-16-112	296-46-50002	AMD	99-05-052
296-24-20521	AMD	99-12-091	296-30-100	NEW-XA	99-16-112	296-46-910	AMD-P	99-08-128
296-24-20521	AMD-XA	99-13-165	296-30-105	NEW-XA	99-16-112	296-46-910	AMD	99-12-080
296-24-20523	AMD	99-12-091	296-30-120	AMD-XA	99-16-112	296-46-915	AMD-P	99-08-128
296-24-20525	AMD	99-12-091	296-30-170	AMD-XA	99-16-112	296-46-915	AMD	99-12-080
296-24-20525	AMD-XA	99-13-165	296-30-180	AMD-XA	99-16-112	296-46-930	AMD	99-05-052
296-24-20527	AMD	99-12-091	296-30-900	AMD	99-07-004	296-46-940	AMD	99-05-052
296-24-20527	AMD-XA	99-13-165	296-31-010	PREP	99-10-101	296-46-950	AMD	99-05-052
296-24-20529	AMD	99-12-091	296-31-010	AMD-P	99-15-100	296-50	PREP	99-02-083
296-24-20531	AMD	99-12-091	296-31-012	PREP	99-10-101	296-50	PREP	99-06-040
296-24-20533	AMD	99-12-091	296-31-012	NEW-P	99-15-100	296-50-010	REP-XR	99-12-090
296-24-23001	AMD-P	99-16-084	296-31-016	PREP	99-10-101	296-50-010	REP	99-16-085
296-24-23003	AMD-P	99-16-084	296-31-016	NEW-P	99-15-100	296-50-020	REP-XR	99-12-090
296-24-23005	AMD-P	99-16-084	296-31-030	AMD-XA	99-16-112	296-50-020	REP	99-16-085
296-24-23007	AMD-P	99-16-084	296-31-035	NEW-XA	99-16-112	296-50-030	REP-XR	99-12-090
296-24-23009	AMD-P	99-16-084	296-31-040	AMD	99-07-004	296-50-030	REP	99-16-085
296-24-23011	AMD-P	99-16-084	296-31-045	NEW-XA	99-16-112	296-50-040	REP-XR	99-12-090
296-24-23013	AMD-P	99-16-084	296-31-050	REP-XA	99-16-112	296-50-040	REP	99-16-085
296-24-23015	AMD-P	99-16-084	296-31-055	NEW-XA	99-16-112	296-50-050	REP-XR	99-12-090
296-24-23017	AMD-P	99-16-084	296-31-056	NEW-XA	99-16-112	296-50-050	REP	99-16-085
296-24-23019	AMD-P	99-16-084	296-31-057	NEW-XA	99-16-112	296-50-060	REP-XR	99-12-090
296-24-23021	AMD-P	99-16-084	296-31-058	NEW-XA	99-16-112	296-50-060	REP	99-16-085
296-24-23023	AMD-P	99-16-084	296-31-060	PREP	99-10-101	296-50-070	REP-XR	99-12-090
296-24-23025	AMD-P	99-16-084	296-31-060	AMD-P	99-15-100	296-50-070	REP	99-16-085
296-24-23027	AMD-P	99-16-084	296-31-065	PREP	99-10-101	296-50-080	REP-XR	99-12-090
296-24-23029	AMD-P	99-16-084	296-31-065	AMD-P	99-15-100	296-50-080	REP	99-16-085
296-24-23031	AMD-P	99-16-084	296-31-067	PREP	99-10-101	296-50-090	REP-XR	99-12-090
296-24-23033	AMD-P	99-16-084	296-31-067	NEW-P	99-15-100	296-50-090	REP	99-16-085
296-24-23035	AMD-P	99-16-084	296-31-068	PREP	99-10-101	296-50-100	REP-XR	99-12-090
296-24-23037	NEW-P	99-16-084	296-31-068	NEW-P	99-15-100	296-50-100	REP	99-16-085
296-24-23529	AMD-XA	99-12-089	296-31-070	AMD-XA	99-16-112	296-50-110	REP-XR	99-12-090
296-24-47505	AMD-XA	99-12-089	296-31-071	AMD	99-07-004	296-50-110	REP	99-16-085
296-24-47505	AMD	99-17-094	296-31-072	AMD	99-07-004	296-50-120	REP-XR	99-12-090
296-24-47507	AMD-XA	99-12-089	296-31-073	AMD	99-07-004	296-50-120	REP	99-16-085
296-24-47507	AMD	99-17-094	296-31-074	NEW-XA	99-16-112	296-50-130	REP-XR	99-12-090
296-24-47511	AMD-XA	99-12-089	296-31-075	AMD	99-07-004	296-50-130	REP	99-16-085
296-24-47511	AMD	99-17-094	296-31-080	AMD	99-07-004	296-50-140	REP-XR	99-12-090
296-24-47515	REP-XA	99-12-089	296-31-085	NEW	99-07-004	296-50-140	REP	99-16-085
296-24-47515	REP	99-17-094	296-31-090	REP-XA	99-16-112	296-50-150	REP-XR	99-12-090
296-24-51005	AMD	99-10-071	296-31-100	REP	99-07-004	296-50-150	REP	99-16-085
296-24-51009	AMD	99-10-071	296-32	PREP	99-02-083	296-50-160	REP-XR	99-12-090
296-24-51017	AMD-XA	99-12-089	296-32	PREP	99-04-057	296-50-160	REP	99-16-085
296-24-51017	AMD	99-17-094	296-32	PREP	99-15-085	296-50-170	REP-XR	99-12-090
296-24-58503	AMD	99-05-080	296-32-260	AMD-XA	99-12-089	296-50-170	REP	99-16-085
296-24-58505	AMD	99-05-080	296-36	PREP	99-02-083	296-50-180	REP-XR	99-12-090
296-24-58513	AMD	99-10-071	296-36	PREP	99-06-040	296-50-180	REP	99-16-085
296-24-58515	AMD	99-10-071	296-36-210	AMD-P	99-15-086	296-50-190	REP-XR	99-12-090
296-24-58516	NEW	99-10-071	296-37	PREP	99-02-083	296-50-190	REP	99-16-085
296-24-58517	AMD	99-10-071	296-45	PREP	99-02-083	296-50-200	REP-XR	99-12-090
296-24-67507	AMD	99-10-071	296-45-015	AMD-XA	99-04-078	296-50-200	REP	99-16-085
296-24-67515	AMD	99-10-071	296-45-015	AMD	99-09-080	296-50-210	REP-XR	99-12-090
296-24-67517	AMD	99-10-071	296-45-045	AMD-XA	99-04-078	296-50-210	REP	99-16-085
296-24-71507	AMD	99-10-071	296-45-045	AMD	99-09-080	296-50-220	REP-XR	99-12-090
296-24-71513	AMD	99-10-071	296-45-17550	AMD-XA	99-04-078	296-50-220	REP	99-16-085
296-24-71517	AMD	99-10-071	296-45-17550	AMD	99-09-080	296-50-230	REP-XR	99-12-090
296-24-71519	AMD	99-10-071	296-45-215	AMD-XA	99-04-078	296-50-230	REP	99-16-085
296-27	PREP	99-02-083	296-45-215	AMD	99-09-080	296-52	PREP	99-02-083
296-27	PREP	99-08-069	296-45-325	AMD-XA	99-04-078	296-52	PREP	99-04-057

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296- 52-421	AMD-XA	99-12-089	296- 54-523	AMD	99-17-117	296- 54-565	AMD-P	99-08-072
296- 52-421	AMD	99-17-094	296- 54-525	REP-P	99-08-072	296- 54-565	AMD	99-17-117
296- 52-425	AMD-XA	99-12-089	296- 54-525	REP	99-17-117	296- 54-567	AMD-P	99-08-072
296- 52-425	AMD	99-17-094	296- 54-527	AMD-P	99-08-072	296- 54-567	AMD	99-17-117
296- 52-429	AMD-XA	99-12-089	296- 54-527	AMD	99-17-117	296- 54-569	AMD-P	99-08-072
296- 52-429	AMD	99-17-094	296- 54-529	AMD-P	99-08-072	296- 54-569	AMD	99-17-117
296- 52-433	AMD-XA	99-12-089	296- 54-529	AMD	99-17-117	296- 54-571	AMD-P	99-08-072
296- 52-433	AMD	99-17-094	296- 54-531	AMD-P	99-08-072	296- 54-571	AMD	99-17-117
296- 52-437	AMD-XA	99-12-089	296- 54-531	AMD	99-17-117	296- 54-573	AMD-P	99-08-072
296- 52-437	AMD	99-17-094	296- 54-533	AMD-P	99-08-072	296- 54-573	AMD	99-17-117
296- 52-449	AMD-XA	99-12-089	296- 54-533	AMD	99-17-117	296- 54-57310	NEW-P	99-08-072
296- 52-449	AMD	99-17-094	296- 54-535	AMD-P	99-08-072	296- 54-57310	NEW	99-17-117
296- 52-477	AMD-XA	99-12-089	296- 54-535	AMD	99-17-117	296- 54-57315	NEW-P	99-08-072
296- 52-477	AMD	99-17-094	296- 54-537	AMD-P	99-08-072	296- 54-57315	NEW	99-17-117
296- 52-489	AMD-XA	99-12-089	296- 54-537	AMD	99-17-117	296- 54-57320	NEW-P	99-08-072
296- 52-489	AMD	99-17-094	296- 54-539	AMD-P	99-08-072	296- 54-57320	NEW	99-17-117
296- 52-493	AMD-XA	99-12-089	296- 54-539	AMD	99-17-117	296- 54-57325	NEW-P	99-08-072
296- 52-493	AMD	99-17-094	296- 54-53910	NEW-P	99-08-072	296- 54-57325	NEW	99-17-117
296- 54	PREP	99-02-083	296- 54-53910	NEW	99-17-117	296- 54-57330	NEW-P	99-08-072
296- 54	PREP	99-12-037	296- 54-53920	NEW-P	99-08-072	296- 54-57330	NEW	99-17-117
296- 54-501	AMD-P	99-08-072	296- 54-53920	NEW	99-17-117	296- 54-57335	NEW-P	99-08-072
296- 54-501	AMD	99-17-117	296- 54-53930	NEW-P	99-08-072	296- 54-57335	NEW	99-17-117
296- 54-503	AMD-P	99-08-072	296- 54-53930	NEW	99-17-117	296- 54-57340	NEW-P	99-08-072
296- 54-503	AMD	99-17-117	296- 54-53940	NEW-P	99-08-072	296- 54-57340	NEW	99-17-117
296- 54-505	AMD-P	99-08-072	296- 54-53940	NEW	99-17-117	296- 54-57345	NEW-P	99-08-072
296- 54-505	AMD	99-17-117	296- 54-541	AMD-P	99-08-072	296- 54-57345	NEW	99-17-117
296- 54-507	AMD-P	99-08-072	296- 54-541	AMD	99-17-117	296- 54-57350	NEW-P	99-08-072
296- 54-507	AMD	99-17-117	296- 54-543	AMD-P	99-08-072	296- 54-57350	NEW	99-17-117
296- 54-509	AMD-P	99-08-072	296- 54-543	AMD	99-17-117	296- 54-57355	NEW-P	99-08-072
296- 54-509	AMD	99-17-117	296- 54-545	AMD-P	99-08-072	296- 54-57355	NEW	99-17-117
296- 54-511	AMD-P	99-08-072	296- 54-545	AMD	99-17-117	296- 54-575	AMD-P	99-08-072
296- 54-511	AMD	99-17-117	296- 54-547	AMD-P	99-08-072	296- 54-575	AMD	99-17-117
296- 54-51110	NEW-P	99-08-072	296- 54-547	AMD	99-17-117	296- 54-577	AMD-P	99-08-072
296- 54-51110	NEW	99-17-117	296- 54-54710	NEW-P	99-08-072	296- 54-577	AMD	99-17-117
296- 54-51120	NEW-P	99-08-072	296- 54-54710	NEW	99-17-117	296- 54-579	AMD-P	99-08-072
296- 54-51120	NEW	99-17-117	296- 54-54720	NEW-P	99-08-072	296- 54-579	AMD	99-17-117
296- 54-51130	NEW-P	99-08-072	296- 54-54720	NEW	99-17-117	296- 54-581	AMD-P	99-08-072
296- 54-51130	NEW	99-17-117	296- 54-54730	NEW-P	99-08-072	296- 54-581	AMD	99-17-117
296- 54-51140	NEW-P	99-08-072	296- 54-54730	NEW	99-17-117	296- 54-58110	NEW-P	99-08-072
296- 54-51140	NEW	99-17-117	296- 54-54740	NEW-P	99-08-072	296- 54-58110	NEW	99-17-117
296- 54-51150	NEW-P	99-08-072	296- 54-54740	NEW	99-17-117	296- 54-58120	NEW-P	99-08-072
296- 54-51150	NEW	99-17-117	296- 54-54750	NEW-P	99-08-072	296- 54-58120	NEW	99-17-117
296- 54-51160	NEW-P	99-08-072	296- 54-54750	NEW	99-17-117	296- 54-58130	NEW-P	99-08-072
296- 54-51160	NEW	99-17-117	296- 54-54760	NEW-P	99-08-072	296- 54-58130	NEW	99-17-117
296- 54-51170	NEW-P	99-08-072	296- 54-54760	NEW	99-17-117	296- 54-583	AMD-P	99-08-072
296- 54-51170	NEW	99-17-117	296- 54-549	AMD-P	99-08-072	296- 54-583	AMD	99-17-117
296- 54-51180	NEW-P	99-08-072	296- 54-549	AMD	99-17-117	296- 54-584	NEW	99-17-117
296- 54-51180	NEW	99-17-117	296- 54-551	AMD-P	99-08-072	296- 54-585	AMD-P	99-08-072
296- 54-51190	NEW-P	99-08-072	296- 54-551	AMD	99-17-117	296- 54-585	AMD	99-17-117
296- 54-51190	NEW	99-17-117	296- 54-553	AMD-P	99-08-072	296- 54-587	AMD-P	99-08-072
296- 54-513	AMD-P	99-08-072	296- 54-553	AMD	99-17-117	296- 54-587	AMD	99-17-117
296- 54-513	AMD	99-17-117	296- 54-555	AMD-P	99-08-072	296- 54-589	AMD-P	99-08-072
296- 54-515	AMD-P	99-08-072	296- 54-555	AMD	99-17-117	296- 54-589	AMD	99-17-117
296- 54-515	AMD	99-17-117	296- 54-557	AMD-P	99-08-072	296- 54-58910	NEW-P	99-08-072
296- 54-51510	NEW-P	99-08-072	296- 54-557	AMD	99-17-117	296- 54-58910	NEW	99-17-117
296- 54-51510	NEW	99-17-117	296- 54-55710	NEW-P	99-08-072	296- 54-58920	NEW-P	99-08-072
296- 54-51520	NEW-P	99-08-072	296- 54-55710	NEW	99-17-117	296- 54-58920	NEW	99-17-117
296- 54-51520	NEW	99-17-117	296- 54-55720	NEW-P	99-08-072	296- 54-58930	NEW-P	99-08-072
296- 54-51530	NEW-P	99-08-072	296- 54-55720	NEW	99-17-117	296- 54-58930	NEW	99-17-117
296- 54-51530	NEW	99-17-117	296- 54-55730	NEW-P	99-08-072	296- 54-58940	NEW-P	99-08-072
296- 54-517	AMD-P	99-08-072	296- 54-55730	NEW	99-17-117	296- 54-58940	NEW	99-17-117
296- 54-517	AMD	99-17-117	296- 54-559	AMD-P	99-08-072	296- 54-58950	NEW-P	99-08-072
296- 54-519	AMD-P	99-08-072	296- 54-559	AMD	99-17-117	296- 54-58950	NEW	99-17-117
296- 54-519	AMD	99-17-117	296- 54-561	AMD-P	99-08-072	296- 54-58960	NEW-P	99-08-072
296- 54-521	AMD-P	99-08-072	296- 54-561	AMD	99-17-117	296- 54-58960	NEW	99-17-117
296- 54-521	AMD	99-17-117	296- 54-563	AMD-P	99-08-072	296- 54-58970	NEW-P	99-08-072
296- 54-523	AMD-P	99-08-072	296- 54-563	AMD	99-17-117	296- 54-58970	NEW	99-17-117

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-54-591	AMD-P	99-08-072	296-56-60077	AMD-P	99-16-084	296-62-07224	NEW	99-10-071
296-54-591	AMD	99-17-117	296-56-60235	AMD	99-10-071	296-62-07225	NEW	99-10-071
296-54-593	AMD-P	99-08-072	296-59	PREP	99-02-083	296-62-07230	NEW	99-10-071
296-54-593	AMD	99-17-117	296-59	PREP	99-06-040	296-62-07231	NEW	99-10-071
296-54-59310	NEW-P	99-08-072	296-59-035	AMD-P	99-15-086	296-62-07233	NEW	99-10-071
296-54-59310	NEW	99-17-117	296-59-040	REP-P	99-15-086	296-62-07234	NEW	99-10-071
296-54-59320	NEW-P	99-08-072	296-62	PREP	99-02-083	296-62-07235	NEW	99-10-071
296-54-59320	NEW	99-17-117	296-62	PREP	99-04-057	296-62-07236	NEW	99-10-071
296-54-59330	NEW-P	99-08-072	296-62	PREP	99-07-014	296-62-07238	NEW	99-10-071
296-54-59330	NEW	99-17-117	296-62-071	AMD	99-10-071	296-62-07239	NEW	99-10-071
296-54-59340	NEW-P	99-08-072	296-62-07101	AMD	99-10-071	296-62-07240	NEW	99-10-071
296-54-59340	NEW	99-17-117	296-62-07102	NEW	99-10-071	296-62-07242	NEW	99-10-071
296-54-595	AMD-P	99-08-072	296-62-07103	AMD	99-10-071	296-62-07243	NEW	99-10-071
296-54-595	AMD	99-17-117	296-62-07105	AMD	99-10-071	296-62-07245	NEW	99-10-071
296-54-59510	NEW-P	99-08-072	296-62-07107	AMD	99-10-071	296-62-07246	NEW	99-10-071
296-54-59510	NEW	99-17-117	296-62-07109	AMD	99-10-071	296-62-07247	NEW	99-10-071
296-54-59520	NEW-P	99-08-072	296-62-07111	AMD	99-10-071	296-62-07248	NEW	99-10-071
296-54-59520	NEW	99-17-117	296-62-07113	AMD	99-10-071	296-62-07251	NEW	99-10-071
296-54-597	AMD-P	99-08-072	296-62-07115	AMD	99-10-071	296-62-07253	NEW	99-10-071
296-54-597	AMD	99-17-117	296-62-07117	AMD	99-10-071	296-62-07255	NEW	99-10-071
296-54-59710	NEW-P	99-08-072	296-62-07119	REP	99-10-071	296-62-07257	NEW	99-10-071
296-54-59710	NEW	99-17-117	296-62-07121	REP	99-10-071	296-62-07260	NEW	99-10-071
296-54-59720	NEW-P	99-08-072	296-62-07130	NEW	99-10-071	296-62-07261	NEW	99-10-071
296-54-59720	NEW	99-17-117	296-62-07131	NEW	99-10-071	296-62-07263	NEW	99-10-071
296-54-59730	NEW-P	99-08-072	296-62-07132	NEW	99-10-071	296-62-07265	NEW	99-10-071
296-54-59730	NEW	99-17-117	296-62-07133	NEW	99-10-071	296-62-07267	NEW	99-10-071
296-54-599	REP-P	99-08-072	296-62-07150	NEW	99-10-071	296-62-07269	NEW	99-10-071
296-54-599	REP	99-17-117	296-62-07151	NEW	99-10-071	296-62-07271	NEW	99-10-071
296-54-601	AMD-P	99-08-072	296-62-07152	NEW	99-10-071	296-62-07273	NEW	99-10-071
296-54-601	AMD	99-17-117	296-62-07153	NEW	99-10-071	296-62-07275	NEW	99-10-071
296-54-603	AMD-P	99-08-072	296-62-07154	NEW	99-10-071	296-62-07277	NEW	99-10-071
296-54-603	AMD	99-17-117	296-62-07155	NEW	99-10-071	296-62-07279	NEW	99-10-071
296-54-604	NEW-P	99-08-072	296-62-07156	NEW	99-10-071	296-62-07281	NEW	99-10-071
296-54-604	NEW	99-17-117	296-62-07160	NEW	99-10-071	296-62-07283	NEW	99-10-071
296-54-605	AMD-P	99-08-072	296-62-07161	NEW	99-10-071	296-62-07285	NEW	99-10-071
296-54-605	AMD	99-17-117	296-62-07162	NEW	99-10-071	296-62-07287	NEW	99-10-071
296-54-607	AMD-P	99-08-072	296-62-07170	NEW	99-10-071	296-62-07289	NEW	99-10-071
296-54-607	AMD	99-17-117	296-62-07171	NEW	99-10-071	296-62-07291	NEW	99-10-071
296-54-701	NEW-P	99-08-072	296-62-07172	NEW	99-10-071	296-62-07293	NEW	99-10-071
296-54-701	NEW	99-17-117	296-62-07175	NEW	99-10-071	296-62-07295	NEW	99-10-071
296-54-70110	NEW-P	99-08-072	296-62-07176	NEW	99-10-071	296-62-07306	AMD	99-10-071
296-54-70110	NEW	99-17-117	296-62-07177	NEW	99-10-071	296-62-07308	AMD	99-10-071
296-54-70120	NEW-P	99-08-072	296-62-07178	NEW	99-10-071	296-62-07329	AMD	99-10-071
296-54-70120	NEW	99-17-117	296-62-07179	NEW	99-10-071	296-62-07336	AMD	99-10-071
296-54-70130	NEW-P	99-08-072	296-62-07182	NEW	99-10-071	296-62-07337	AMD	99-10-071
296-54-70130	NEW	99-17-117	296-62-07184	NEW	99-10-071	296-62-07342	AMD	99-10-071
296-54-703	NEW-P	99-08-072	296-62-07186	NEW	99-10-071	296-62-07343	AMD	99-10-071
296-54-705	NEW-P	99-08-072	296-62-07188	NEW	99-10-071	296-62-07347	AMD	99-10-071
296-54-705	NEW	99-17-117	296-62-07190	NEW	99-10-071	296-62-07347	AMD-XA	99-12-089
296-54-707	NEW-P	99-08-072	296-62-07192	NEW	99-10-071	296-62-07347	AMD	99-17-094
296-54-707	NEW	99-17-117	296-62-07194	NEW	99-10-071	296-62-07354	AMD-XA	99-12-089
296-54-99002	AMD-P	99-08-072	296-62-07201	NEW	99-10-071	296-62-07354	AMD	99-17-094
296-54-99002	AMD	99-17-117	296-62-07202	NEW	99-10-071	296-62-07367	AMD	99-10-071
296-54-99003	AMD-P	99-08-072	296-62-07203	NEW	99-10-071	296-62-07369	AMD	99-10-071
296-54-99003	AMD	99-17-117	296-62-07205	NEW	99-10-071	296-62-07379	REP	99-10-071
296-54-99004	AMD-P	99-08-072	296-62-07206	NEW	99-10-071	296-62-07383	AMD	99-10-071
296-54-99004	AMD	99-17-117	296-62-07208	NEW	99-10-071	296-62-07413	AMD	99-10-071
296-54-99007	REP-P	99-08-072	296-62-07209	NEW	99-10-071	296-62-07425	AMD	99-10-071
296-54-99008	REP-P	99-08-072	296-62-07210	NEW	99-10-071	296-62-07431	REP	99-10-071
296-54-99009	REP-P	99-08-072	296-62-07212	NEW	99-10-071	296-62-07433	AMD-XA	99-12-089
296-54-99010	REP-P	99-08-072	296-62-07213	NEW	99-10-071	296-62-07433	AMD	99-17-094
296-54-99013	NEW-P	99-08-072	296-62-07214	NEW	99-10-071	296-62-07441	AMD	99-10-071
296-54-99013	NEW	99-17-117	296-62-07217	NEW	99-10-071	296-62-07445	REP	99-10-071
296-54-99014	NEW-P	99-08-072	296-62-07218	NEW	99-10-071	296-62-07460	AMD	99-10-071
296-56	PREP	99-02-083	296-62-07219	NEW	99-10-071	296-62-07470	AMD	99-10-071
296-56	PREP	99-12-037	296-62-07222	NEW	99-10-071	296-62-07521	AMD	99-10-071
296-56-60053	AMD	99-10-071	296-62-07223	NEW	99-10-071	296-62-07523	AMD	99-10-071

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-62-07533	REP	99-10-071	296-62-14513	REP-P	99-13-144	296-62-3060	AMD	99-07-097
296-62-07540	AMD	99-10-071	296-62-14515	REP-P	99-13-144	296-62-30605	NEW	99-07-097
296-62-07542	AMD-XA	99-12-089	296-62-14517	REP-P	99-13-144	296-62-30610	NEW	99-07-097
296-62-07542	AMD	99-17-094	296-62-14519	REP-P	99-13-144	296-62-30615	NEW	99-07-097
296-62-07550	REP	99-10-071	296-62-14520	REP-P	99-13-144	296-62-3070	AMD	99-07-097
296-62-07615	AMD	99-10-071	296-62-14521	REP-P	99-13-144	296-62-30705	NEW	99-07-097
296-62-07635	REP	99-10-071	296-62-14523	REP-P	99-13-144	296-62-30710	NEW	99-07-097
296-62-07639	REP	99-10-071	296-62-14525	REP-P	99-13-144	296-62-30715	NEW	99-07-097
296-62-07662	REP	99-10-071	296-62-14527	REP-P	99-13-144	296-62-3080	AMD	99-07-097
296-62-07664	REP	99-10-071	296-62-14529	REP-P	99-13-144	296-62-3090	AMD	99-07-097
296-62-07666	REP	99-10-071	296-62-14533	AMD	99-10-071	296-62-30905	NEW	99-07-097
296-62-07668	REP	99-10-071	296-62-20011	AMD	99-10-071	296-62-30910	NEW	99-07-097
296-62-07670	REP	99-10-071	296-62-20017	AMD-XA	99-12-089	296-62-30915	NEW	99-07-097
296-62-07672	REP	99-10-071	296-62-20017	AMD	99-17-094	296-62-30920	NEW	99-07-097
296-62-07701	AMD-P	99-08-071	296-62-20019	AMD	99-10-071	296-62-30925	NEW	99-07-097
296-62-07701	AMD	99-17-026	296-62-20027	AMD	99-10-071	296-62-30930	NEW	99-07-097
296-62-07703	AMD-P	99-08-071	296-62-20027	AMD-XA	99-12-089	296-62-30935	NEW	99-07-097
296-62-07703	AMD	99-17-026	296-62-20027	AMD	99-17-094	296-62-30940	NEW	99-07-097
296-62-07709	AMD-P	99-08-071	296-62-20029	AMD-XA	99-12-089	296-62-3100	AMD	99-07-097
296-62-07709	AMD	99-17-026	296-62-20029	AMD	99-17-094	296-62-31005	NEW	99-07-097
296-62-07712	AMD-P	99-08-071	296-62-300	AMD	99-07-097	296-62-31010	NEW	99-07-097
296-62-07712	AMD	99-17-026	296-62-30001	NEW	99-07-097	296-62-31015	NEW	99-07-097
296-62-07713	AMD-P	99-08-071	296-62-30003	NEW	99-07-097	296-62-31020	NEW	99-07-097
296-62-07713	AMD	99-17-026	296-62-30010	AMD	99-07-097	296-62-3110	AMD	99-07-097
296-62-07715	AMD	99-10-071	296-62-30105	NEW	99-07-097	296-62-31105	NEW	99-07-097
296-62-07721	AMD-P	99-08-071	296-62-30110	NEW	99-07-097	296-62-31110	NEW	99-07-097
296-62-07721	AMD	99-17-026	296-62-30115	NEW	99-07-097	296-62-3112	REP	99-07-097
296-62-07722	AMD-P	99-08-071	296-62-30120	NEW	99-07-097	296-62-3120	AMD	99-07-097
296-62-07722	AMD	99-10-071	296-62-30125	NEW	99-07-097	296-62-3130	AMD	99-07-097
296-62-07722	AMD	99-17-026	296-62-30130	NEW	99-07-097	296-62-31305	NEW	99-07-097
296-62-07728	AMD-P	99-08-071	296-62-30135	NEW	99-07-097	296-62-31310	NEW	99-07-097
296-62-07728	AMD	99-17-026	296-62-30140	NEW	99-07-097	296-62-31315	NEW	99-07-097
296-62-07733	AMD	99-10-071	296-62-30145	NEW	99-07-097	296-62-31320	NEW	99-07-097
296-62-07735	AMD-P	99-08-071	296-62-3020	AMD	99-07-097	296-62-31325	NEW	99-07-097
296-62-07735	AMD	99-17-026	296-62-30205	NEW	99-07-097	296-62-31330	NEW	99-07-097
296-62-07737	AMD-P	99-08-071	296-62-30210	NEW	99-07-097	296-62-31335	NEW	99-07-097
296-62-07737	AMD	99-17-026	296-62-30215	NEW	99-07-097	296-62-3138	AMD	99-07-097
296-62-07739	REP	99-10-071	296-62-30220	NEW	99-07-097	296-62-3140	AMD	99-07-097
296-62-11019	AMD	99-10-071	296-62-30225	NEW	99-07-097	296-62-31405	NEW	99-07-097
296-62-11021	AMD	99-10-071	296-62-30230	NEW	99-07-097	296-62-31410	NEW	99-07-097
296-62-130	AMD	99-07-063	296-62-30235	NEW	99-07-097	296-62-31415	NEW	99-07-097
296-62-14100	NEW-P	99-13-144	296-62-3030	AMD	99-07-097	296-62-31420	NEW	99-07-097
296-62-14105	NEW-P	99-13-144	296-62-30305	NEW	99-07-097	296-62-31425	NEW	99-07-097
296-62-14110	NEW-P	99-13-144	296-62-30310	NEW	99-07-097	296-62-31430	NEW	99-07-097
296-62-14115	NEW-P	99-13-144	296-62-30315	NEW	99-07-097	296-62-31435	NEW	99-07-097
296-62-14120	NEW-P	99-13-144	296-62-30340	AMD	99-07-097	296-62-31440	NEW	99-07-097
296-62-14125	NEW-P	99-13-144	296-62-30405	NEW	99-07-097	296-62-31445	NEW	99-07-097
296-62-14130	NEW-P	99-13-144	296-62-30410	NEW	99-07-097	296-62-31450	NEW	99-07-097
296-62-14135	NEW-P	99-13-144	296-62-30415	NEW	99-07-097	296-62-31455	NEW	99-07-097
296-62-14140	NEW-P	99-13-144	296-62-30420	NEW	99-07-097	296-62-31460	NEW	99-07-097
296-62-14145	NEW-P	99-13-144	296-62-30425	NEW	99-07-097	296-62-31465	NEW	99-07-097
296-62-14150	NEW-P	99-13-144	296-62-30430	NEW	99-07-097	296-62-31470	NEW	99-07-097
296-62-14155	NEW-P	99-13-144	296-62-30435	NEW	99-07-097	296-62-3152	AMD	99-07-097
296-62-14170	NEW-P	99-13-144	296-62-30440	NEW	99-07-097	296-62-3160	AMD	99-07-097
296-62-14171	NEW-P	99-13-144	296-62-30445	NEW	99-07-097	296-62-3180	AMD	99-07-097
296-62-14172	NEW-P	99-13-144	296-62-30450	NEW	99-07-097	296-62-3190	AMD	99-07-097
296-62-14173	NEW-P	99-13-144	296-62-30455	NEW	99-07-097	296-62-3195	AMD	99-07-097
296-62-14174	NEW-P	99-13-144	296-62-30460	NEW	99-07-097	296-62-410	NEW	99-07-097
296-62-14175	NEW-P	99-13-144	296-62-30465	NEW	99-07-097	296-62-41001	NEW	99-07-097
296-62-14176	NEW-P	99-13-144	296-62-3050	AMD	99-07-097	296-62-41003	NEW	99-07-097
296-62-14500	REP-P	99-13-144	296-62-30505	NEW	99-07-097	296-62-41010	NEW	99-07-097
296-62-14501	REP-P	99-13-144	296-62-30510	NEW	99-07-097	296-62-41011	NEW	99-07-097
296-62-14503	REP-P	99-13-144	296-62-30515	NEW	99-07-097	296-62-41013	NEW	99-07-097
296-62-14505	REP-P	99-13-144	296-62-30520	NEW	99-07-097	296-62-41015	NEW	99-07-097
296-62-14507	REP-P	99-13-144	296-62-30525	NEW	99-07-097	296-62-41017	NEW	99-07-097
296-62-14509	REP-P	99-13-144	296-62-30530	NEW	99-07-097	296-62-41019	NEW	99-07-097
296-62-14511	REP-P	99-13-144	296-62-30535	NEW	99-07-097	296-62-41020	NEW	99-07-097

Table

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-62-41021	NEW	99-07-097	296-79-080	AMD-P	99-06-071	296-79-29005	AMD	99-16-083
296-62-41023	NEW	99-07-097	296-79-080	AMD	99-16-083	296-79-29007	AMD-P	99-06-071
296-62-41025	NEW	99-07-097	296-79-090	AMD-P	99-06-071	296-79-29007	AMD	99-16-083
296-62-41025	AMD-XA	99-12-089	296-79-090	AMD	99-16-083	296-79-29009	AMD-P	99-06-071
296-62-41025	AMD	99-17-094	296-79-100	AMD-P	99-06-071	296-79-29009	AMD	99-16-083
296-62-41030	NEW	99-07-097	296-79-100	AMD	99-16-083	296-79-29011	AMD-P	99-06-071
296-62-41031	NEW	99-07-097	296-79-110	AMD-P	99-06-071	296-79-29011	AMD	99-16-083
296-62-41033	NEW	99-07-097	296-79-110	AMD	99-16-083	296-79-29013	AMD-P	99-06-071
296-62-41035	NEW	99-07-097	296-79-120	AMD-P	99-06-071	296-79-29013	AMD	99-16-083
296-62-41040	NEW	99-07-097	296-79-120	AMD	99-16-083	296-79-29015	AMD-P	99-06-071
296-62-41041	NEW	99-07-097	296-79-130	AMD-P	99-06-071	296-79-29015	AMD	99-16-083
296-62-41042	NEW	99-07-097	296-79-130	AMD	99-16-083	296-79-29017	AMD-P	99-06-071
296-62-41043	NEW	99-07-097	296-79-140	AMD-P	99-06-071	296-79-29017	AMD	99-16-083
296-62-41044	NEW	99-07-097	296-79-140	AMD	99-16-083	296-79-29019	REP-P	99-06-071
296-62-41045	NEW	99-07-097	296-79-150	AMD-P	99-06-071	296-79-29019	REP	99-16-083
296-62-41046	NEW	99-07-097	296-79-150	AMD	99-16-083	296-79-29021	AMD-P	99-06-071
296-62-41047	NEW	99-07-097	296-79-160	AMD-P	99-06-071	296-79-29021	AMD	99-16-083
296-62-41060	NEW	99-07-097	296-79-160	AMD	99-16-083	296-79-29023	AMD-P	99-06-071
296-62-41061	NEW	99-07-097	296-79-170	AMD-P	99-06-071	296-79-29023	AMD	99-16-083
296-62-41063	NEW	99-07-097	296-79-170	AMD	99-16-083	296-79-29025	REP-P	99-06-071
296-62-41080	NEW	99-07-097	296-79-180	AMD-P	99-06-071	296-79-29025	REP	99-16-083
296-62-41081	NEW	99-07-097	296-79-180	AMD	99-16-083	296-79-29027	AMD-P	99-06-071
296-62-41082	NEW	99-07-097	296-79-180	AMD	99-16-083	296-79-29027	AMD	99-16-083
296-62-41084	NEW	99-07-097	296-79-190	AMD-P	99-06-071	296-79-29029	AMD-P	99-06-071
296-62-41085	NEW	99-07-097	296-79-190	AMD	99-16-083	296-79-29029	AMD	99-16-083
296-62-41086	NEW	99-07-097	296-79-200	AMD-P	99-06-071	296-79-29031	AMD-P	99-06-071
296-63	PREP	99-02-083	296-79-200	AMD	99-16-083	296-79-29031	AMD	99-16-083
296-65	PREP	99-02-083	296-79-210	AMD-P	99-06-071	296-79-29031	AMD	99-16-083
296-65-003	AMD-P	99-08-071	296-79-210	AMD	99-16-083	296-79-29033	AMD-P	99-06-071
296-65-003	AMD	99-17-026	296-79-220	AMD-P	99-06-071	296-79-29033	AMD	99-16-083
296-65-010	AMD-P	99-08-071	296-79-220	AMD	99-16-083	296-79-29035	AMD-P	99-06-071
296-65-010	AMD	99-17-026	296-79-230	AMD-P	99-06-071	296-79-29035	AMD	99-16-083
296-65-012	AMD-P	99-08-071	296-79-230	AMD	99-16-083	296-79-29037	AMD-P	99-06-071
296-65-012	AMD	99-17-026	296-79-240	AMD-P	99-06-071	296-79-29037	AMD	99-16-083
296-65-020	AMD-P	99-08-071	296-79-240	AMD	99-16-083	296-79-300	AMD-P	99-06-071
296-65-020	AMD	99-17-026	296-79-250	AMD-P	99-06-071	296-79-300	AMD	99-16-083
296-65-025	AMD-P	99-08-071	296-79-250	AMD	99-16-083	296-79-310	AMD-P	99-06-071
296-65-025	AMD	99-17-026	296-79-255	REP-P	99-06-071	296-79-310	AMD	99-16-083
296-65-030	AMD-P	99-08-071	296-79-255	REP	99-16-083	296-79-31001	AMD-P	99-06-071
296-65-030	AMD	99-17-026	296-79-260	AMD-P	99-06-071	296-79-31001	AMD	99-16-083
296-67	PREP	99-02-083	296-79-260	AMD	99-16-083	296-79-31003	AMD-P	99-06-071
296-78	PREP	99-02-083	296-79-270	AMD-P	99-06-071	296-79-31003	AMD	99-16-083
296-78	PREP	99-06-040	296-79-270	AMD	99-16-083	296-79-31005	REP-P	99-06-071
296-78	PREP	99-12-037	296-79-27001	REP-P	99-06-071	296-79-31005	REP	99-16-083
296-78-540	AMD-P	99-15-086	296-79-27001	REP	99-16-083	296-79-31007	REP-P	99-06-071
296-78-545	AMD-P	99-15-086	296-79-27003	AMD-P	99-06-071	296-79-31007	REP	99-16-083
296-78-550	AMD-P	99-15-086	296-79-27003	AMD	99-16-083	296-79-31009	AMD-P	99-06-071
296-78-555	REP-P	99-15-086	296-79-27005	AMD-P	99-06-071	296-79-31009	AMD	99-16-083
296-78-665	AMD	99-10-071	296-79-27005	AMD	99-16-083	296-79-31011	REP-P	99-06-071
296-78-71019	AMD	99-10-071	296-79-27005	AMD	99-16-083	296-79-31011	REP	99-16-083
296-79	PREP	99-02-083	296-79-27007	AMD-P	99-06-071	296-79-31013	REP-P	99-06-071
296-79-010	AMD-P	99-06-071	296-79-27007	AMD	99-16-083	296-79-31013	REP	99-16-083
296-79-010	AMD	99-16-083	296-79-27009	AMD-P	99-06-071	296-79-320	AMD-P	99-06-071
296-79-011	NEW-P	99-06-071	296-79-27009	AMD	99-16-083	296-79-320	AMD	99-16-083
296-79-011	NEW	99-16-083	296-79-27011	AMD-P	99-06-071	296-86A-020	AMD-P	99-08-128
296-79-020	AMD-P	99-06-071	296-79-27011	AMD	99-16-083	296-86A-020	AMD	99-12-080
296-79-020	AMD	99-16-083	296-79-27013	AMD-P	99-06-071	296-86A-025	AMD-P	99-08-128
296-79-030	AMD-P	99-06-071	296-79-27013	AMD	99-16-083	296-86A-025	AMD	99-12-080
296-79-030	AMD	99-16-083	296-79-27015	AMD-P	99-06-071	296-86A-028	AMD-P	99-08-128
296-79-040	AMD-P	99-06-071	296-79-27015	AMD	99-16-083	296-86A-028	AMD	99-12-080
296-79-040	AMD	99-16-083	296-79-280	AMD-P	99-06-071	296-86A-030	AMD-P	99-08-128
296-79-050	AMD-P	99-06-071	296-79-280	AMD	99-16-083	296-86A-030	AMD	99-12-080
296-79-050	AMD	99-16-083	296-79-290	AMD-P	99-06-071	296-86A-040	AMD-P	99-08-128
296-79-060	REP-P	99-06-071	296-79-290	AMD	99-16-083	296-86A-040	AMD	99-12-080
296-79-060	REP	99-16-083	296-79-29001	AMD-P	99-06-071	296-86A-060	AMD-P	99-08-128
296-79-070	AMD-P	99-06-071	296-79-29001	AMD	99-16-083	296-86A-060	AMD	99-12-080
296-79-070	AMD	99-16-083	296-79-29003	AMD-P	99-06-071	296-86A-070	AMD-P	99-08-128
			296-79-29003	AMD	99-16-083	296-86A-070	AMD	99-12-080
			296-79-29005	AMD-P	99-06-071			

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296- 86A-073	AMD-P	99-08-128	296-104-155	AMD-P	99-17-028	296-150C-1758	REP-XR	99-16-113
296- 86A-073	AMD	99-12-080	296-104-160	PREP	99-05-021	296-150C-1759	REP-XR	99-16-113
296- 86A-074	AMD-P	99-08-128	296-104-160	AMD-P	99-17-028	296-150C-1760	REP-XR	99-16-113
296- 86A-074	AMD	99-12-080	296-104-165	PREP	99-05-021	296-150C-1770	REP-XR	99-16-113
296- 86A-075	AMD-P	99-08-128	296-104-165	AMD-P	99-17-028	296-150C-1780	REP-XR	99-16-113
296- 86A-075	AMD	99-12-080	296-104-170	PREP	99-05-021	296-150C-1790	REP-XR	99-16-113
296- 86A-080	AMD-P	99-08-128	296-104-170	AMD-P	99-17-028	296-150C-1800	REP-XR	99-16-113
296- 86A-080	AMD	99-12-080	296-104-285	REP-P	99-04-036	296-150C-1810	REP-XR	99-16-113
296- 99	PREP	99-02-083	296-104-285	REP	99-08-049	296-150C-1820	REP-XR	99-16-113
296-104-001	PREP	99-05-021	296-104-502	PREP	99-05-021	296-150C-1830	REP-XR	99-16-113
296-104-001	AMD-P	99-17-028	296-104-502	AMD-P	99-17-028	296-150C-3000	AMD-P	99-08-128
296-104-002	PREP	99-05-021	296-104-700	AMD-P	99-04-036	296-150C-3000	AMD	99-12-080
296-104-002	REP-P	99-17-028	296-104-700	AMD	99-08-049	296-150F	PREP	99-05-078
296-104-010	PREP	99-05-021	296-115	PREP	99-02-083	296-150F-0050	NEW-P	99-08-129
296-104-010	AMD-P	99-17-028	296-125-019	REP-XR	99-12-113	296-150F-0050	NEW	99-13-010
296-104-015	PREP	99-05-021	296-125-019	REP	99-15-071	296-150F-0140	NEW-P	99-08-129
296-104-015	AMD-P	99-17-028	296-125-0212	NEW-W	99-09-081	296-150F-0140	NEW	99-13-010
296-104-017	PREP	99-05-021	296-125-0630	NEW-W	99-09-081	296-150F-0320	AMD-P	99-08-129
296-104-018	PREP	99-05-021	296-125-0725	NEW-W	99-09-081	296-150F-0320	AMD	99-13-010
296-104-018	AMD-P	99-17-028	296-150C	PREP	99-05-078	296-150F-0605	NEW-P	99-08-129
296-104-020	PREP	99-05-021	296-150C-0020	AMD-XA	99-17-116	296-150F-0605	NEW	99-13-010
296-104-020	AMD-P	99-17-028	296-150C-0140	NEW-P	99-08-129	296-150F-0610	NEW-P	99-08-129
296-104-025	PREP	99-05-021	296-150C-0140	NEW	99-13-010	296-150F-0610	NEW	99-13-010
296-104-025	AMD-P	99-17-028	296-150C-0320	AMD-P	99-08-129	296-150F-0615	NEW-P	99-08-129
296-104-030	PREP	99-05-021	296-150C-0320	AMD	99-13-010	296-150F-0615	NEW	99-13-010
296-104-030	AMD-P	99-17-028	296-150C-0330	REP-XR	99-16-113	296-150F-0620	NEW-P	99-08-129
296-104-035	PREP	99-05-021	296-150C-0410	AMD-XA	99-17-116	296-150F-0620	NEW	99-13-010
296-104-035	AMD-P	99-17-028	296-150C-0500	AMD-XA	99-17-116	296-150F-0625	NEW-P	99-08-129
296-104-040	PREP	99-05-021	296-150C-0805	NEW-P	99-08-129	296-150F-0625	NEW	99-13-010
296-104-040	AMD-P	99-17-028	296-150C-0805	NEW	99-13-010	296-150F-3000	AMD-P	99-08-128
296-104-045	PREP	99-05-021	296-150C-0810	AMD-P	99-08-129	296-150F-3000	AMD	99-12-080
296-104-045	AMD-P	99-17-028	296-150C-0810	AMD	99-13-010	296-150M	PREP	99-05-078
296-104-050	PREP	99-05-021	296-150C-0960	AMD-P	99-08-129	296-150M-0020	AMD-P	99-08-129
296-104-050	AMD-P	99-17-028	296-150C-0960	AMD	99-13-010	296-150M-0020	AMD	99-13-010
296-104-055	PREP	99-05-021	296-150C-1080	AMD-P	99-08-129	296-150M-0120	NEW-P	99-08-129
296-104-055	AMD-P	99-17-028	296-150C-1080	AMD	99-13-010	296-150M-0120	NEW	99-13-010
296-104-060	PREP	99-05-021	296-150C-1345	NEW-P	99-08-129	296-150M-0140	NEW-P	99-08-129
296-104-060	AMD-P	99-17-028	296-150C-1345	NEW	99-13-010	296-150M-0140	NEW	99-13-010
296-104-065	PREP	99-05-021	296-150C-1545	NEW-P	99-08-129	296-150M-0306	AMD-P	99-08-129
296-104-065	AMD-P	99-17-028	296-150C-1545	NEW	99-13-010	296-150M-0306	AMD	99-13-010
296-104-100	PREP	99-05-021	296-150C-1580	AMD-P	99-08-129	296-150M-0309	NEW-P	99-08-129
296-104-100	AMD-P	99-17-028	296-150C-1580	AMD-W	99-13-011	296-150M-0309	NEW	99-13-010
296-104-102	PREP	99-05-021	296-150C-1580	REP-XR	99-16-113	296-150M-0400	REP-P	99-08-129
296-104-102	AMD-P	99-17-028	296-150C-1590	REP-XR	99-16-113	296-150M-0400	REP	99-13-010
296-104-105	PREP	99-05-021	296-150C-1600	REP-XR	99-16-113	296-150M-0600	AMD-P	99-08-129
296-104-105	AMD-P	99-17-028	296-150C-1610	REP-XR	99-16-113	296-150M-0600	AMD	99-13-010
296-104-107	PREP	99-05-021	296-150C-1620	REP-XR	99-16-113	296-150M-0610	AMD-P	99-08-129
296-104-107	REP-P	99-17-028	296-150C-1630	REP-XR	99-16-113	296-150M-0610	AMD	99-13-010
296-104-110	PREP	99-05-021	296-150C-1640	REP-XR	99-16-113	296-150M-0614	NEW-P	99-08-129
296-104-110	AMD-P	99-17-028	296-150C-1650	REP-XR	99-16-113	296-150M-0614	NEW	99-13-010
296-104-115	PREP	99-05-021	296-150C-1660	REP-XR	99-16-113	296-150M-0615	NEW-P	99-08-129
296-104-115	AMD-P	99-17-028	296-150C-1670	REP-XR	99-16-113	296-150M-0615	NEW	99-13-010
296-104-125	PREP	99-05-021	296-150C-1680	REP-XR	99-16-113	296-150M-0640	AMD-P	99-08-129
296-104-125	AMD-P	99-17-028	296-150C-1690	REP-XR	99-16-113	296-150M-0640	AMD	99-13-010
296-104-130	PREP	99-05-021	296-150C-1700	REP-XR	99-16-113	296-150M-0655	NEW-P	99-08-129
296-104-130	AMD-P	99-17-028	296-150C-1710	REP-XR	99-16-113	296-150M-0655	NEW	99-13-010
296-104-135	PREP	99-05-021	296-150C-1720	REP-XR	99-16-113	296-150M-3000	AMD-P	99-08-128
296-104-135	AMD-P	99-17-028	296-150C-1730	REP-XR	99-16-113	296-150M-3000	AMD	99-12-080
296-104-140	PREP	99-05-021	296-150C-1740	REP-XR	99-16-113	296-150P	PREP	99-05-078
296-104-140	AMD-P	99-17-028	296-150C-1750	REP-XR	99-16-113	296-150P-0020	AMD-P	99-08-129
296-104-145	PREP	99-05-021	296-150C-1751	REP-XR	99-16-113	296-150P-0020	AMD	99-13-010
296-104-145	AMD-P	99-17-028	296-150C-1752	REP-XR	99-16-113	296-150P-0050	NEW-P	99-08-129
296-104-150	PREP	99-05-021	296-150C-1753	REP-XR	99-16-113	296-150P-0050	NEW	99-13-010
296-104-150	AMD-P	99-17-028	296-150C-1754	REP-XR	99-16-113	296-150P-0140	NEW-P	99-08-129
296-104-151	PREP	99-05-021	296-150C-1755	REP-XR	99-16-113	296-150P-0140	NEW	99-13-010
296-104-151	AMD-P	99-17-028	296-150C-1756	REP-XR	99-16-113	296-150P-3000	AMD-P	99-08-128
296-104-155	PREP	99-05-021	296-150C-1757	REP-XR	99-16-113	296-150P-3000	AMD	99-12-080

Table

TABLE

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-150R	PREP	99-05-078	296-150T-0540	NEW-P	99-08-130	296-150V-1170	NEW-P	99-13-200
296-150R-0020	AMD-P	99-08-129	296-150T-0540	NEW	99-12-079	296-150V-1180	NEW-P	99-13-200
296-150R-0020	AMD	99-13-010	296-150T-0550	NEW-P	99-08-130	296-150V-1185	NEW-P	99-13-200
296-150R-0050	NEW-P	99-08-129	296-150T-0550	NEW	99-12-079	296-150V-1190	NEW-P	99-13-200
296-150R-0050	NEW	99-13-010	296-150T-0580	NEW-P	99-08-130	296-150V-1220	NEW-P	99-13-200
296-150R-0140	NEW-P	99-08-129	296-150T-0580	NEW	99-12-079	296-150V-1303	NEW-P	99-13-200
296-150R-0140	NEW	99-13-010	296-150T-0590	NEW-P	99-08-130	296-150V-1330	NEW-P	99-13-200
296-150R-3000	AMD-P	99-08-128	296-150T-0590	NEW	99-12-079	296-150V-1350	NEW-P	99-13-200
296-150R-3000	AMD	99-12-080	296-150T-0600	NEW-P	99-08-130	296-150V-1360	NEW-P	99-13-200
296-150T-0010	NEW-P	99-08-130	296-150T-0600	NEW	99-12-079	296-150V-1380	NEW-P	99-13-200
296-150T-0010	NEW	99-12-079	296-150T-0700	NEW-P	99-08-130	296-150V-1390	NEW-P	99-13-200
296-150T-0020	NEW-P	99-08-130	296-150T-0700	NEW	99-12-079	296-150V-1400	NEW-P	99-13-200
296-150T-0020	NEW	99-12-079	296-150T-0710	NEW-P	99-08-130	296-150V-1410	NEW-P	99-13-200
296-150T-0030	NEW-P	99-08-130	296-150T-0710	NEW	99-12-079	296-150V-1420	NEW-P	99-13-200
296-150T-0030	NEW	99-12-079	296-150T-0720	NEW-P	99-08-130	296-150V-1430	NEW-P	99-13-200
296-150T-0040	NEW-P	99-08-130	296-150T-0720	NEW	99-12-079	296-150V-1440	NEW-P	99-13-200
296-150T-0040	NEW	99-12-079	296-150T-3000	NEW-P	99-08-130	296-150V-1450	NEW-P	99-13-200
296-150T-0050	NEW-P	99-08-130	296-150T-3000	NEW	99-12-079	296-150V-1460	NEW-P	99-13-200
296-150T-0050	NEW	99-12-079	296-150V-0010	NEW-P	99-13-200	296-150V-1470	NEW-P	99-13-200
296-150T-0070	NEW-P	99-08-130	296-150V-0020	NEW-P	99-13-200	296-150V-1530	NEW-P	99-13-200
296-150T-0070	NEW	99-12-079	296-150V-0030	NEW-P	99-13-200	296-150V-1540	NEW-P	99-13-200
296-150T-0080	NEW-P	99-08-130	296-150V-0040	NEW-P	99-13-200	296-150V-1550	NEW-P	99-13-200
296-150T-0080	NEW	99-12-079	296-150V-0050	NEW-P	99-13-200	296-150V-1560	NEW-P	99-13-200
296-150T-0100	NEW-P	99-08-130	296-150V-0060	NEW-P	99-13-200	296-150V-1570	NEW-P	99-13-200
296-150T-0100	NEW	99-12-079	296-150V-0070	NEW-P	99-13-200	296-150V-1580	NEW-P	99-13-200
296-150T-0110	NEW-P	99-08-130	296-150V-0080	NEW-P	99-13-200	296-150V-1590	NEW-P	99-13-200
296-150T-0110	NEW	99-12-079	296-150V-0100	NEW-P	99-13-200	296-150V-3000	NEW-P	99-13-200
296-150T-0120	NEW-P	99-08-130	296-150V-0110	NEW-P	99-13-200	296-155	PREP	99-02-083
296-150T-0120	NEW	99-12-079	296-150V-0120	NEW-P	99-13-200	296-155	PREP	99-04-057
296-150T-0130	NEW-P	99-08-130	296-150V-0140	NEW-P	99-13-200	296-155	PREP	99-06-040
296-150T-0130	NEW	99-12-079	296-150V-0200	NEW-P	99-13-200	296-155	PREP	99-07-015
296-150T-0140	NEW-P	99-08-130	296-150V-0210	NEW-P	99-13-200	296-155	PREP	99-08-070
296-150T-0140	NEW	99-12-079	296-150V-0220	NEW-P	99-13-200	296-155	PREP	99-12-037
296-150T-0200	NEW-P	99-08-130	296-150V-0230	NEW-P	99-13-200	296-155-120	AMD-P	99-15-086
296-150T-0200	NEW	99-12-079	296-150V-0240	NEW-P	99-13-200	296-155-125	AMD-P	99-15-086
296-150T-0210	NEW-P	99-08-130	296-150V-0250	NEW-P	99-13-200	296-155-130	AMD-P	99-15-086
296-150T-0210	NEW	99-12-079	296-150V-0300	NEW-P	99-13-200	296-155-135	REP-P	99-15-086
296-150T-0220	NEW-P	99-08-130	296-150V-0310	NEW-P	99-13-200	296-155-17317	AMD	99-10-071
296-150T-0220	NEW	99-12-079	296-150V-0320	NEW-P	99-13-200	296-155-17335	REP	99-10-071
296-150T-0230	NEW-P	99-08-130	296-150V-0340	NEW-P	99-13-200	296-155-17337	AMD	99-10-071
296-150T-0230	NEW	99-12-079	296-150V-0350	NEW-P	99-13-200	296-155-17341	AMD	99-10-071
296-150T-0250	NEW-P	99-08-130	296-150V-0380	NEW-P	99-13-200	296-155-17349	REP	99-10-071
296-150T-0250	NEW	99-12-079	296-150V-0390	NEW-P	99-13-200	296-155-17351	REP	99-10-071
296-150T-0300	NEW-P	99-08-130	296-150V-0400	NEW-P	99-13-200	296-155-17353	REP	99-10-071
296-150T-0300	NEW	99-12-079	296-150V-0410	NEW-P	99-13-200	296-155-17355	REP	99-10-071
296-150T-0320	NEW-P	99-08-130	296-150V-0415	NEW-P	99-13-200	296-155-17357	REP	99-10-071
296-150T-0320	NEW	99-12-079	296-150V-0500	NEW-P	99-13-200	296-155-17359	REP	99-10-071
296-150T-0340	NEW-P	99-08-130	296-150V-0510	NEW-P	99-13-200	296-155-174	AMD	99-10-071
296-150T-0340	NEW	99-12-079	296-150V-0520	NEW-P	99-13-200	296-155-17613	AMD	99-10-071
296-150T-0350	NEW-P	99-08-130	296-150V-0530	NEW-P	99-13-200	296-155-17625	AMD	99-10-071
296-150T-0350	NEW	99-12-079	296-150V-0540	NEW-P	99-13-200	296-155-17635	REP	99-10-071
296-150T-0380	NEW-P	99-08-130	296-150V-0550	NEW-P	99-13-200	296-155-17652	AMD	99-10-071
296-150T-0380	NEW	99-12-079	296-150V-0560	NEW-P	99-13-200	296-155-17656	REP	99-10-071
296-150T-0390	NEW-P	99-08-130	296-150V-0580	NEW-P	99-13-200	296-155-220	AMD	99-10-071
296-150T-0390	NEW	99-12-079	296-150V-0590	NEW-P	99-13-200	296-155-270	AMD-XA	99-12-089
296-150T-0400	NEW-P	99-08-130	296-150V-0700	NEW-P	99-13-200	296-155-270	AMD	99-17-094
296-150T-0400	NEW	99-12-079	296-150V-0710	NEW-P	99-13-200	296-155-367	AMD	99-10-071
296-150T-0410	NEW-P	99-08-130	296-150V-0720	NEW-P	99-13-200	296-155-615	AMD-P	99-16-084
296-150T-0410	NEW	99-12-079	296-150V-0800	NEW-P	99-13-200	296-155-655	AMD	99-10-071
296-150T-0500	NEW-P	99-08-130	296-150V-0930	NEW-P	99-13-200	296-155-655	AMD-XA	99-12-089
296-150T-0500	NEW	99-12-079	296-150V-0950	NEW-P	99-13-200	296-155-655	AMD	99-17-094
296-150T-0510	NEW-P	99-08-130	296-150V-1040	NEW-P	99-13-200	296-155-66403	AMD-XA	99-12-089
296-150T-0510	NEW	99-12-079	296-150V-1070	NEW-P	99-13-200	296-155-66403	AMD	99-17-094
296-150T-0520	NEW-P	99-08-130	296-150V-1090	NEW-P	99-13-200	296-155-730	AMD	99-10-071
296-150T-0520	NEW	99-12-079	296-150V-1100	NEW-P	99-13-200	296-200A-900	AMD-P	99-08-128
296-150T-0530	NEW-P	99-08-130	296-150V-1110	NEW-P	99-13-200	296-200A-900	AMD	99-12-080
296-150T-0530	NEW	99-12-079	296-150V-1120	NEW-P	99-13-200	296-301	PREP	99-04-057

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-301	PREP	99-06-040	308-12-326	AMD	99-08-062	308-56A-075	AMD-P	99-04-037
296-301-020	AMD-XA	99-12-089	308-13-045	PREP	99-14-083	308-56A-075	AMD	99-08-064
296-301-020	AMD	99-12-091	308-13-150	PREP	99-14-083	308-56A-140	AMD-P	99-07-016
296-301-020	AMD	99-17-094	308-13-160	PREP	99-14-083	308-56A-140	AMD	99-12-031
296-301-170	AMD-XA	99-12-089	308-19-010	AMD-P	99-08-087	308-56A-145	REP-P	99-07-016
296-301-170	AMD	99-17-094	308-19-020	AMD-P	99-08-087	308-56A-145	REP	99-12-031
296-301-195	AMD-XA	99-12-089	308-19-030	AMD-P	99-08-087	308-56A-150	PREP	99-13-006
296-301-195	AMD	99-17-094	308-19-100	AMD-P	99-08-087	308-56A-150	AMD-P	99-17-030
296-301-215	AMD-P	99-15-086	308-19-105	NEW-P	99-08-087	308-56A-160	AMD-P	99-07-016
296-301-220	AMD-XA	99-12-089	308-19-110	AMD-P	99-08-087	308-56A-160	AMD	99-12-031
296-301-220	AMD	99-17-094	308-19-140	AMD-P	99-08-087	308-56A-200	AMD-P	99-07-016
296-302	PREP	99-02-083	308-19-150	AMD-P	99-08-087	308-56A-200	AMD	99-12-031
296-303	PREP	99-02-083	308-19-160	AMD-P	99-08-087	308-56A-205	REP-P	99-07-016
296-304	PREP	99-02-083	308-19-200	AMD-P	99-08-087	308-56A-205	REP	99-12-031
296-304	PREP	99-12-037	308-19-210	AMD-P	99-08-087	308-56A-215	AMD-P	99-07-016
296-304-03005	AMD	99-10-071	308-19-220	AMD-P	99-08-087	308-56A-215	AMD	99-12-031
296-305	PREP	99-02-083	308-19-230	AMD-P	99-08-087	308-56A-250	AMD-P	99-04-038
296-305-01003	AMD	99-05-080	308-19-240	AMD-P	99-08-087	308-56A-250	AMD	99-08-065
296-305-01005	AMD	99-05-080	308-19-250	AMD-P	99-08-087	308-56A-255	REP-P	99-04-038
296-305-01509	AMD	99-05-080	308-19-300	AMD-P	99-08-087	308-56A-255	REP	99-08-065
296-305-02001	AMD	99-05-080	308-19-400	AMD-P	99-08-087	308-56A-265	AMD-P	99-04-038
296-305-02003	AMD	99-05-080	308-19-410	AMD-P	99-08-087	308-56A-265	AMD	99-08-065
296-305-02007	AMD	99-05-080	308-19-420	AMD-P	99-08-087	308-56A-270	AMD-P	99-04-038
296-305-02013	AMD	99-05-080	308-19-430	NEW-P	99-08-087	308-56A-270	AMD	99-08-065
296-305-02015	AMD	99-05-080	308-19-440	NEW-P	99-08-087	308-56A-275	AMD-P	99-04-038
296-305-02501	AMD	99-10-071	308-21-010	REP-XR	99-10-026	308-56A-275	AMD	99-08-065
296-305-04001	AMD	99-05-080	308-21-010	REP	99-14-035	308-56A-280	REP-P	99-04-038
296-305-04501	AMD	99-05-080	308-21-100	REP-XR	99-10-026	308-56A-280	REP	99-08-065
296-305-04503	AMD	99-05-080	308-21-100	REP	99-14-035	308-56A-285	REP-P	99-04-038
296-305-05001	AMD	99-05-080	308-21-200	REP-XR	99-10-026	308-56A-285	REP	99-08-065
296-305-05007	AMD	99-05-080	308-21-200	REP	99-14-035	308-56A-300	AMD-P	99-09-043
296-305-05009	AMD	99-05-080	308-21-300	REP-XR	99-10-026	308-56A-300	AMD	99-13-150
296-305-06005	AMD	99-05-080	308-21-300	REP	99-14-035	308-56A-305	AMD-P	99-09-043
296-305-06007	AMD	99-05-080	308-21-400	REP-XR	99-10-026	308-56A-305	AMD	99-13-150
296-307	PREP	99-02-083	308-21-400	REP	99-14-035	308-56A-310	AMD-P	99-09-043
296-307	PREP	99-12-037	308-21-500	REP-XR	99-10-026	308-56A-310	AMD	99-13-150
296-307	PREP	99-15-107	308-21-500	REP	99-14-035	308-56A-310	AMD-P	99-09-043
296-307-52005	AMD-P	99-16-084	308-21-500	REP	99-14-035	308-56A-315	AMD-P	99-09-043
296-307-52007	AMD-P	99-16-084	308-21-600	REP-XR	99-10-026	308-56A-315	AMD	99-13-150
296-307-52011	AMD-P	99-16-084	308-21-600	REP	99-14-035	308-56A-320	AMD-P	99-09-043
296-307-52019	AMD-P	99-16-084	308-32-015	REP-XR	99-09-056	308-56A-320	AMD	99-13-150
296-307-52021	AMD-P	99-16-084	308-32-015	REP	99-14-062	308-56A-325	AMD-P	99-09-043
296-307-52023	AMD-P	99-16-084	308-32-020	REP-XR	99-09-056	308-56A-325	AMD	99-13-150
296-307-52029	AMD-P	99-16-084	308-32-020	REP	99-14-062	308-56A-330	AMD-P	99-09-043
296-307-52030	NEW-P	99-16-084	308-32-030	REP-XR	99-09-056	308-56A-330	AMD	99-13-150
296-307-52031	AMD-P	99-16-084	308-32-030	REP	99-14-062	308-56A-335	AMD	99-06-037
296-307-52039	AMD-P	99-16-084	308-32-040	REP-XR	99-09-056	308-56A-340	REP	99-06-037
296-307-52047	AMD-P	99-16-084	308-32-040	REP	99-14-062	308-56A-345	REP	99-06-037
296-350	PREP	99-02-083	308-32-050	REP-XR	99-09-056	308-56A-350	REP	99-06-037
296-350	PREP	99-08-069	308-32-050	REP	99-14-062	308-56A-355	AMD	99-06-037
296-400A-045	AMD-XA	99-03-109	308-32-060	REP-XR	99-09-056	308-56A-360	REP	99-06-037
296-400A-045	AMD	99-07-101	308-32-060	REP	99-14-062	308-56A-365	REP	99-06-037
296-401A-100	AMD	99-05-052	308-32-070	REP-XR	99-09-056	308-56A-420	AMD	99-02-049
296-401A-140	AMD	99-05-052	308-32-070	REP	99-14-062	308-57	PREP	99-07-080
296-401A-530	AMD	99-05-052	308-32-080	REP-XR	99-09-056	308-57-500	NEW-P	99-09-044
296-401A-700	AMD-P	99-08-128	308-32-080	REP	99-14-062	308-57-500	NEW	99-13-151
296-401A-700	AMD	99-12-080	308-32-090	REP-XR	99-09-056	308-58-010	PREP	99-10-054
296-402	PREP	99-17-115	308-32-090	REP	99-14-062	308-58-020	PREP	99-10-054
296-403	PREP	99-17-115	308-48-800	PREP	99-10-016	308-58-030	PREP	99-10-054
308-10-010	PREP	99-08-036	308-48-800	AMD-P	99-13-136	308-58-040	PREP	99-10-054
308-10-010	AMD-P	99-12-026	308-48-800	AMD	99-16-040	308-58-050	PREP	99-10-054
308-10-010	AMD	99-17-031	308-56A-056	NEW-P	99-17-030	308-61	PREP	99-16-051
308-10-045	AMD-XA	99-05-004	308-56A-060	AMD-P	99-04-037	308-66-190	AMD	99-02-049
308-10-045	AMD	99-09-045	308-56A-060	AMD	99-08-064	308-66-190	AMD-W	99-05-059
308-12-320	AMD-P	99-05-050	308-56A-065	AMD-P	99-04-037	308-78	PREP	99-08-127
308-12-320	AMD	99-08-062	308-56A-065	AMD	99-08-064	308-78-020	PREP	99-08-127
308-12-326	AMD-P	99-05-050	308-56A-070	AMD-P	99-04-037	308-78-020	AMD-P	99-15-096
			308-56A-070	AMD	99-08-064	308-78-030	PREP	99-08-127



Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
308- 78-030	AMD-P	99-15-096	308- 94-191	PREP	99-13-149	308- 96A-505	PREP	99-10-056
308- 78-040	PREP	99-08-127	308- 94-200	PREP	99-13-149	308- 96A-510	PREP	99-10-056
308- 78-040	AMD-P	99-15-096	308- 94-210	PREP	99-13-149	308- 96A-520	PREP	99-10-056
308- 78-045	PREP	99-08-127	308- 94-220	PREP	99-13-149	308- 96A-530	PREP	99-10-056
308- 78-045	AMD-P	99-15-096	308- 94-240	PREP	99-13-149	308- 96A-540	PREP	99-10-056
308- 78-050	PREP	99-08-127	308- 94-250	PREP	99-13-149	308- 97-011	NEW	99-16-018
308- 78-050	AMD-P	99-15-096	308- 94-261	PREP	99-13-149	308- 99-010	PREP	99-10-055
308- 78-060	PREP	99-08-127	308- 94-265	PREP	99-13-149	308- 99-020	PREP	99-10-055
308- 78-060	AMD-P	99-15-096	308- 94-270	PREP	99-13-149	308- 99-021	PREP	99-10-055
308- 78-070	PREP	99-08-127	308- 96A	PREP	99-07-040	308- 99-025	PREP	99-10-055
308- 78-070	AMD-P	99-15-096	308- 96A	PREP-W	99-07-079	308- 99-030	PREP	99-10-055
308- 78-080	PREP	99-08-127	308- 96A-046	PREP	99-10-056	308- 99-040	PREP	99-10-055
308- 78-080	AMD-P	99-15-096	308- 96A-050	PREP	99-10-056	308- 99-050	PREP	99-10-055
308- 78-090	PREP	99-08-127	308- 96A-056	PREP	99-10-056	308-104-109	NEW-P	99-02-052
308- 78-090	AMD-P	99-15-096	308- 96A-057	PREP	99-10-056	308-104-109	NEW	99-05-032
308- 87	PREP	99-12-018	308- 96A-061	PREP	99-10-058	308-124	AMD	99-03-042
308- 91-010	PREP	99-13-139	308- 96A-062	PREP	99-10-058	308-124-001	REP	99-03-042
308- 91-030	PREP	99-13-139	308- 96A-063	PREP	99-10-058	308-124-005	REP	99-03-042
308- 91-040	PREP	99-13-139	308- 96A-064	PREP	99-10-058	308-124-007	AMD	99-03-042
308- 91-050	PREP	99-13-139	308- 96A-080	PREP	99-03-003	308-124-021	AMD	99-03-042
308- 91-060	PREP	99-13-139	308- 96A-080	AMD-P	99-12-111	308-124A-200	AMD	99-03-042
308- 91-080	PREP	99-13-139	308- 96A-080	AMD	99-16-020	308-124A-460	AMD	99-03-042
308- 91-090	PREP	99-13-139	308- 96A-085	PREP	99-03-003	308-124B-140	AMD	99-03-042
308- 91-095	PREP	99-13-139	308- 96A-085	AMD-P	99-12-111	308-124B-145	NEW	99-03-042
308- 91-120	PREP	99-13-139	308- 96A-085	AMD	99-16-020	308-124B-150	AMD	99-03-042
308- 91-130	PREP	99-13-139	308- 96A-090	PREP	99-03-003	308-124C-010	AMD	99-03-042
308- 91-140	PREP	99-13-139	308- 96A-090	AMD-P	99-12-111	308-124D-061	AMD	99-03-042
308- 91-150	PREP	99-13-139	308- 96A-090	AMD	99-16-020	308-124D-070	NEW	99-03-042
308- 91-170	PREP	99-13-139	308- 96A-095	AMD-P	99-12-111	308-124D-080	NEW	99-03-042
308- 93-030	AMD-P	99-17-070	308- 96A-095	AMD	99-16-020	308-124F-010	REP	99-03-042
308- 93-040	REP-P	99-17-070	308- 96A-097	PREP	99-03-003	308-124F-020	REP	99-03-042
308- 93-079	AMD-P	99-15-097	308- 96A-097	REP-P	99-12-111	308-124F-030	REP	99-03-042
308- 93-079	AMD-W	99-17-108	308- 96A-097	REP	99-16-020	308-125-090	AMD-P	99-08-028
308- 93-090	AMD-P	99-15-097	308- 96A-098	NEW-P	99-13-081	308-125-090	AMD	99-11-039
308- 93-090	AMD-W	99-17-108	308- 96A-099	NEW	99-06-029	308-125-120	AMD	99-04-075
308- 93-100	REP-P	99-15-097	308- 96A-100	REP	99-06-029	308-125-200	AMD	99-04-074
308- 93-100	REP-W	99-17-108	308- 96A-101	NEW	99-06-029	308-129	PREP	99-12-102
308- 93-135	PREP	99-10-057	308- 96A-105	REP	99-06-029	308-330-300	AMD	99-04-070
308- 93-135	REP-P	99-17-070	308- 96A-106	REP	99-06-029	308-330-307	AMD	99-04-070
308- 93-140	PREP	99-10-057	308- 96A-110	AMD	99-06-029	308-330-425	AMD	99-04-070
308- 93-140	AMD-P	99-17-070	308- 96A-120	REP	99-06-029	308-400-030	AMD	99-06-003
308- 93-145	PREP	99-10-057	308- 96A-135	AMD	99-06-029	308-400-030	PREP	99-17-027
308- 93-145	AMD-P	99-17-070	308- 96A-136	AMD	99-06-029	308-400-050	REP	99-06-003
308- 93-155	PREP	99-10-057	308- 96A-145	AMD	99-06-029	308-400-053	AMD	99-06-003
308- 93-155	REP-P	99-17-070	308- 96A-161	AMD-P	99-13-081	308-400-054	REP	99-06-003
308- 93-160	AMD-P	99-15-097	308- 96A-162	REP-P	99-13-081	308-400-058	AMD	99-06-003
308- 93-160	AMD-W	99-17-108	308- 96A-275	AMD-P	99-13-081	308-400-059	AMD	99-06-003
308- 93-250	AMD	99-03-002	308- 96A-306	PREP	99-11-016	308-400-062	AMD	99-06-003
308- 93-270	AMD	99-03-002	308- 96A-306	AMD-E	99-16-019	308-400-070	REP	99-06-003
308- 93-280	AMD	99-03-002	308- 96A-306	AMD-P	99-17-109	308-400-095	AMD	99-06-003
308- 93-320	PREP	99-10-057	308- 96A-311	PREP	99-11-016	308-400-095	PREP	99-17-027
308- 93-320	REP-P	99-17-070	308- 96A-311	AMD-E	99-16-019	308-400-120	AMD	99-06-003
308- 93-340	REP-P	99-15-097	308- 96A-311	AMD-P	99-17-109	308-410-050	REP	99-06-003
308- 93-340	REP-W	99-17-108	308- 96A-312	PREP	99-11-016	308-410-070	AMD	99-06-003
308- 93-410	REP	99-03-002	308- 96A-312	AMD-E	99-16-019	314- 04-005	AMD-P	99-08-014
308- 93-520	AMD	99-07-041	308- 96A-312	AMD-P	99-17-109	314- 04-005	AMD	99-12-129
308- 93-530	AMD	99-07-041	308- 96A-313	PREP	99-11-016	314- 04-006	NEW-P	99-08-014
308- 93-540	AMD	99-07-041	308- 96A-313	AMD-E	99-16-019	314- 04-006	NEW	99-12-129
308- 93-550	REP	99-07-041	308- 96A-313	AMD-P	99-17-109	314- 04-007	NEW-P	99-08-014
308- 93-560	REP	99-07-041	308- 96A-314	PREP	99-11-016	314- 04-007	NEW	99-12-129
308- 93-570	REP	99-07-041	308- 96A-314	AMD-E	99-16-019	314- 04-010	REP-XR	99-09-038
308- 93-580	REP	99-07-041	308- 96A-314	AMD-P	99-17-109	314- 04-010	REP	99-15-023
308- 93-590	REP	99-07-041	308- 96A-316	PREP	99-11-016	314- 08-080	PREP	99-12-126
308- 93-600	REP	99-07-041	308- 96A-316	AMD-E	99-16-019	314- 08-080	AMD-P	99-17-098
308- 93-620	REP	99-03-002	308- 96A-316	AMD-P	99-17-109	314- 10-040	AMD	99-03-031
308- 94-170	PREP	99-13-149	308- 96A-400	AMD-P	99-13-081	314- 12	PREP	99-09-039
308- 94-181	PREP	99-13-149	308- 96A-410	AMD-P	99-13-081	314- 12	PREP	99-12-128

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
314- 12-170	AMD	99-03-032	315- 11A-172	REP	99-16-007	352- 32-075	AMD	99-15-030
314- 12-210	NEW-S	99-06-097	315- 11A-173	REP-XR	99-10-031	352- 32-25001	AMD-P	99-04-118
314- 12-210	NEW	99-13-042	315- 11A-173	REP	99-16-007	352- 32-25001	AMD	99-08-031
314- 12-215	NEW-S	99-06-097	315- 11A-174	REP-XR	99-10-031	352- 32-25002	REP-P	99-04-118
314- 12-215	NEW	99-13-042	315- 11A-174	REP	99-16-007	352- 32-25002	REP	99-08-031
314- 12-220	NEW-S	99-06-097	315- 11A-175	REP-XR	99-10-031	352- 32-251	PREP	99-16-082
314- 12-220	NEW	99-13-042	315- 11A-175	REP	99-16-007	352- 37-020	AMD-W	99-08-084
314- 12-225	NEW-S	99-06-097	315- 11A-176	REP-XR	99-10-031	352- 37-190	AMD-W	99-08-084
314- 12-225	NEW	99-13-042	315- 11A-176	REP	99-16-007	356- 05-012	NEW-P	99-02-053
314- 12-300	NEW	99-03-032	315- 11A-177	REP-XR	99-10-031	356- 05-012	NEW	99-05-043
314- 12-310	NEW	99-03-032	315- 11A-177	REP	99-16-007	356- 05-013	AMD-P	99-02-053
314- 12-320	NEW	99-03-032	315- 11A-178	REP-XR	99-10-031	356- 05-013	AMD	99-05-043
314- 12-330	NEW	99-03-032	315- 11A-178	REP	99-16-007	356- 05-207	AMD-P	99-02-053
314- 12-340	NEW	99-03-032	315- 11A-179	REP-XR	99-10-031	356- 05-207	AMD	99-05-043
314- 14-160	AMD	99-03-033	315- 11A-179	REP	99-16-007	356- 05-327	REP-P	99-02-053
314- 14-165	NEW	99-03-033	315- 11A-180	REP-XR	99-10-031	356- 05-327	REP	99-05-043
314- 14-170	NEW	99-03-033	315- 11A-180	REP	99-16-007	356- 05-447	AMD-P	99-02-053
314- 15	PREP	99-09-039	315- 11A-181	REP-XR	99-10-031	356- 05-447	AMD	99-05-043
314- 15	PREP	99-12-127	315- 11A-181	REP	99-16-007	356- 09-010	AMD-P	99-02-053
314- 16	PREP	99-09-039	315- 11A-182	REP-XR	99-10-031	356- 09-010	AMD	99-05-043
314- 16	PREP	99-12-128	315- 11A-182	REP	99-16-007	356- 09-030	AMD-P	99-02-053
314- 16-160	PREP	99-04-002	315- 11A-182	REP	99-16-007	356- 09-030	AMD	99-05-043
314- 16-180	PREP	99-04-113	315- 11A-184	REP-XR	99-10-031	356- 09-040	AMD-P	99-02-053
314- 16-260	NEW-S	99-07-085	315- 11A-184	REP	99-16-007	356- 09-040	AMD	99-05-043
314- 16-260	NEW-S	99-16-118	315- 11A-185	REP-XR	99-10-031	356- 09-040	AMD	99-05-043
314- 16-260	NEW-S	99-07-085	315- 11A-185	REP	99-16-007	356- 09-040	AMD-P	99-13-104
314- 16-265	NEW-S	99-07-085	315- 11A-186	REP-XR	99-10-031	356- 09-050	AMD-P	99-02-053
314- 16-265	NEW-S	99-16-118	315- 11A-186	REP	99-16-007	356- 09-050	AMD	99-05-043
314- 16-270	NEW-S	99-07-085	315- 33A-060	AMD-P	99-04-012	356- 14-300	NEW-P	99-16-102
314- 16-270	NEW-S	99-16-118	315- 33A-060	AMD-W	99-05-036	356- 15-100	AMD-P	99-16-103
314- 16-275	NEW-S	99-07-085	315- 33A-060	AMD-P	99-10-052	356- 15-110	AMD-P	99-16-103
314- 16-275	NEW-S	99-16-118	315- 33A-060	AMD	99-16-008	356- 22-010	AMD-P	99-02-053
314- 20	PREP	99-04-112	315- 34-055	PREP	99-10-051	356- 22-010	AMD	99-05-043
314- 20	PREP	99-12-125	315- 34-055	REP-P	99-13-148	356- 22-040	AMD-P	99-02-053
314- 24	PREP	99-12-125	315- 34-057	NEW-P	99-13-148	356- 22-040	AMD	99-05-043
314- 37-030	NEW	99-04-114	315- 34-060	AMD-P	99-04-012	356- 22-090	AMD-P	99-02-053
314- 52	PREP	99-17-097	315- 34-060	AMD-W	99-05-036	356- 22-090	AMD	99-05-043
314- 60-040	AMD-XA	99-12-084	317-100-010	REP	99-07-076	356- 22-180	AMD-P	99-02-053
314- 60-040	AMD	99-16-119	317-100-020	REP	99-07-076	356- 22-180	AMD	99-05-043
314- 68-010	AMD-P	99-05-014	317-100-030	REP	99-07-076	356- 22-180	AMD-P	99-13-104
314- 68-010	AMD	99-10-066	317-100-040	REP	99-07-076	356- 26-010	AMD-P	99-02-053
314- 68-020	AMD-P	99-05-014	317-100-050	REP	99-07-076	356- 26-010	AMD	99-05-043
314- 68-020	AMD	99-10-066	317-100-060	REP	99-07-076	356- 26-060	AMD-P	99-02-053
314- 68-030	AMD-P	99-05-014	317-100-070	REP	99-07-076	356- 26-060	AMD	99-05-043
314- 68-030	AMD	99-10-066	317-100-080	REP	99-07-076	356- 26-070	AMD-P	99-02-053
314- 68-040	AMD-P	99-05-014	317-100-090	REP	99-07-076	356- 26-070	AMD	99-05-043
314- 68-040	AMD	99-10-066	326- 02-034	PREP	99-05-083	356- 26-110	AMD	99-03-044
314- 68-050	AMD-P	99-05-014	326- 30-041	PREP	99-05-082	356- 30-010	AMD-P	99-02-053
314- 68-050	AMD	99-10-066	332- 24-221	AMD-P	99-08-117	356- 30-010	AMD	99-05-043
315- 04	PREP	99-04-076	332- 24-221	AMD	99-12-085	359- 07	AMD-P	99-16-104
315- 04-190	PREP	99-04-003	332- 26-010	NEW-E	99-15-001	359- 09	AMD-P	99-16-104
315- 06-040	PREP	99-16-006	332- 30-170	NEW	99-07-034	359- 39	AMD-P	99-16-104
315- 06-075	NEW	99-04-077	332- 52-065	PREP	99-08-116	359- 48	AMD-P	99-16-104
315- 06-085	NEW	99-04-077	332- 52-065	AMD-P	99-12-092	363-116-082	AMD	99-08-003
315- 06-120	AMD-P	99-13-148	352- 12	AMD	99-04-117	363-116-185	AMD-P	99-12-028
315- 11A-166	REP-XR	99-10-031	352- 12-005	AMD	99-04-117	363-116-185	AMD	99-16-027
315- 11A-166	REP	99-16-007	352- 12-010	AMD	99-04-117	363-116-300	AMD-P	99-08-075
315- 11A-167	REP-XR	99-10-031	352- 12-020	AMD	99-04-117	363-116-300	AMD	99-12-027
315- 11A-167	REP	99-16-007	352- 12-030	AMD	99-04-117	365- 18-010	NEW-S	99-04-072
315- 11A-168	REP-XR	99-10-031	352- 12-040	AMD	99-04-117	365- 18-010	NEW-W	99-17-084
315- 11A-168	REP	99-16-007	352- 12-050	AMD	99-04-117	365- 18-020	NEW-S	99-04-072
315- 11A-169	REP-XR	99-10-031	352- 32	PREP	99-06-042	365- 18-020	NEW-W	99-17-084
315- 11A-169	REP	99-16-007	352- 32	PREP	99-16-033	365- 18-030	NEW-S	99-04-072
315- 11A-170	REP-XR	99-10-031	352- 32-070	PREP	99-06-042	365- 18-030	NEW-W	99-17-084
315- 11A-170	REP	99-16-007	352- 32-070	AMD-P	99-10-065	365- 18-040	NEW-S	99-04-072
315- 11A-171	REP-XR	99-10-031	352- 32-070	AMD	99-15-030	365- 18-040	NEW-W	99-17-084
315- 11A-171	REP	99-16-007	352- 32-075	PREP	99-06-042	365- 18-050	NEW-S	99-04-072
315- 11A-172	REP-XR	99-10-031	352- 32-075	AMD-P	99-10-065	365- 18-050	NEW-W	99-17-084

Table

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
365-18-060	NEW-S	99-04-072	388-01-050	NEW	99-15-065	388-14-420	AMD-E	99-17-012
365-18-060	NEW-W	99-17-084	388-01-060	NEW-P	99-11-085	388-14-421	NEW-P	99-17-010
365-18-070	NEW-S	99-04-072	388-01-060	NEW	99-15-065	388-14-422	NEW-P	99-17-010
365-18-070	NEW-W	99-17-084	388-01-070	NEW-P	99-11-085	388-14-423	NEW-P	99-17-010
365-18-080	NEW-S	99-04-072	388-01-070	NEW	99-15-065	388-14-424	NEW-P	99-17-010
365-18-080	NEW-W	99-17-084	388-01-080	NEW-P	99-11-085	388-14-490	AMD-P	99-17-052
365-18-090	NEW-S	99-04-072	388-01-080	NEW	99-15-065	388-15	PREP	99-15-066
365-18-090	NEW-W	99-17-084	388-01-090	NEW-P	99-11-085	388-15-130	PREP	99-17-054
365-18-100	NEW-S	99-04-072	388-01-090	NEW	99-15-065	388-15-132	PREP	99-17-054
365-18-100	NEW-W	99-17-084	388-01-100	NEW-P	99-11-085	388-15-134	PREP	99-17-054
365-18-110	NEW-S	99-04-072	388-01-100	NEW	99-15-065	388-15-150	PREP	99-17-054
365-18-110	NEW-W	99-17-084	388-01-110	NEW-P	99-11-085	388-15-160	PREP	99-17-054
365-18-120	NEW-S	99-04-072	388-01-110	NEW	99-15-065	388-15-170	DECOD	99-15-076
365-18-120	NEW-W	99-17-084	388-01-120	NEW-P	99-11-085	388-15-171	DECOD	99-15-076
365-120-070	NEW-E	99-16-025	388-01-120	NEW	99-15-065	388-15-175	DECOD	99-15-076
365-130	PREP	99-08-059	388-01-130	NEW-P	99-11-085	388-15-176	DECOD	99-15-076
365-135	PREP	99-15-010	388-01-130	NEW	99-15-065	388-15-177	PREP	99-05-070
365-140	PREP	99-06-025	388-01-140	NEW-P	99-11-085	388-15-196	AMD	99-03-041
365-140-010	AMD-P	99-10-114	388-01-140	NEW	99-15-065	388-15-19600	AMD	99-03-041
365-140-010	AMD	99-15-062	388-01-150	NEW-P	99-11-085	388-15-19610	AMD	99-03-041
365-140-030	AMD-P	99-10-114	388-01-150	NEW	99-15-065	388-15-19620	AMD	99-03-041
365-140-030	AMD	99-15-062	388-01-160	NEW-P	99-11-085	388-15-19630	AMD	99-03-041
365-140-040	AMD-P	99-10-114	388-01-160	NEW	99-15-065	388-15-19640	AMD	99-03-041
365-140-040	AMD	99-15-062	388-01-170	NEW-P	99-11-085	388-15-19650	AMD	99-03-041
365-140-050	AMD-P	99-10-114	388-01-170	NEW	99-15-065	388-15-19660	AMD	99-03-041
365-140-050	AMD	99-15-062	388-01-180	NEW-P	99-11-085	388-15-19670	AMD	99-03-041
365-140-060	AMD-P	99-10-114	388-01-180	NEW	99-15-065	388-15-19680	AMD	99-03-041
365-140-060	AMD	99-15-062	388-01-190	NEW-P	99-11-085	388-15-202	PREP	99-09-051
365-170	PREP	99-10-067	388-01-190	NEW	99-15-065	388-15-203	PREP	99-09-051
365-170-020	AMD-P	99-15-106	388-01-200	NEW	99-15-065	388-15-205	PREP	99-09-051
365-170-030	AMD-XA	99-15-029	388-01-210	NEW-P	99-11-085	388-15-220	PREP	99-17-054
365-170-030	AMD-P	99-15-106	388-01-220	NEW-P	99-11-085	388-15-570	PREP	99-17-054
365-170-050	AMD-P	99-15-106	388-04-010	RECOD	99-15-021	388-15-610	PREP	99-11-083
365-170-070	AMD-P	99-15-106	388-04-020	RECOD	99-15-021	388-15-650	NEW	99-12-072
365-170-080	AMD-P	99-15-106	388-04-030	RECOD	99-15-021	388-15-651	NEW	99-12-072
365-170-090	AMD-P	99-15-106	388-04-040	RECOD	99-15-021	388-15-652	NEW	99-12-072
365-170-095	NEW-P	99-15-106	388-04-040	RECOD	99-15-021	388-15-653	NEW	99-12-072
365-170-100	AMD-P	99-15-106	388-04-050	RECOD	99-15-021	388-15-654	NEW	99-12-072
381-50-180	AMD	99-07-081	388-04-060	RECOD	99-15-021	388-15-654	NEW	99-12-072
383-06	PREP	99-17-112	388-04-070	RECOD	99-15-021	388-15-655	NEW	99-12-072
383-06-010	AMD-E	99-16-012	388-08-410	AMD-XA	99-11-086	388-15-656	NEW	99-12-072
383-06-020	AMD-E	99-16-012	388-08-410	AMD	99-16-023	388-15-657	NEW	99-12-072
383-06-040	AMD-E	99-16-012	388-08-413	AMD-XA	99-11-086	388-15-658	NEW	99-12-072
383-06-070	AMD-E	99-16-012	388-08-413	AMD	99-16-023	388-15-659	NEW	99-12-072
383-06-090	AMD-E	99-16-012	388-08-437	AMD-XA	99-11-086	388-15-660	NEW	99-12-072
383-06-100	AMD-E	99-16-012	388-08-437	AMD	99-16-023	388-15-661	NEW	99-12-072
383-06-120	AMD-E	99-16-012	388-08-440	AMD-XA	99-11-086	388-15-662	NEW	99-12-072
383-07	PREP	99-17-113	388-08-440	AMD	99-16-023	388-17	PREP	99-15-066
383-07-020	AMD-E	99-16-013	388-08-464	AMD-XA	99-11-086	388-24	PREP	99-17-053
383-07-030	AMD-E	99-16-013	388-08-464	AMD	99-16-023	388-24-2430	PREP	99-17-053
383-07-040	AMD-E	99-16-013	388-08-470	AMD-XA	99-11-086	388-60	PREP	99-17-057
383-07-050	AMD-E	99-16-013	388-08-470	AMD	99-16-023	388-71-0800	NEW-P	99-14-066
383-07-070	AMD-E	99-16-013	388-08-515	AMD-XA	99-11-086	388-71-0805	NEW-P	99-14-066
383-07-080	AMD-E	99-16-013	388-08-515	AMD	99-16-023	388-71-0810	NEW-P	99-14-066
383-07-090	AMD-E	99-16-013	388-08-555	AMD-XA	99-11-086	388-71-0815	NEW-P	99-14-066
383-07-100	AMD-E	99-16-013	388-08-555	AMD	99-16-023	388-71-0820	NEW-P	99-14-066
383-07-120	AMD-E	99-16-013	388-08-575	AMD-XA	99-11-086	388-71-0825	NEW-P	99-14-066
383-07-130	AMD-E	99-16-013	388-08-575	AMD	99-16-023	388-71-0830	NEW-P	99-14-066
388-01-010	NEW-P	99-11-085	388-10-010	DECOD	99-15-021	388-71-0835	NEW-P	99-14-066
388-01-010	NEW	99-15-065	388-10-020	DECOD	99-15-021	388-71-0840	NEW-P	99-14-066
388-01-020	NEW-P	99-11-085	388-10-030	DECOD	99-15-021	388-71-0845	NEW-P	99-14-066
388-01-020	NEW	99-15-065	388-10-040	DECOD	99-15-021	388-74-010	PREP	99-17-056
388-01-030	NEW-P	99-11-085	388-10-040	DECOD	99-15-021	388-74-030	PREP	99-17-056
388-01-030	NEW	99-15-065	388-10-050	DECOD	99-15-021	388-78A-020	AMD-XA	99-09-052
388-01-040	NEW-P	99-11-085	388-10-060	DECOD	99-15-021	388-78A-020	AMD	99-15-067
388-01-040	NEW	99-15-065	388-10-070	DECOD	99-15-021	388-78A-040	AMD-XA	99-09-052
388-01-050	NEW-P	99-11-085	388-14-420	PREP	99-09-003	388-78A-040	AMD	99-15-067
			388-14-420	AMD-E	99-09-004	388-78A-050	AMD-XA	99-09-052
			388-14-420	AMD-P	99-17-010			

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388- 78A-050	AMD	99-15-067	388- 96-776	AMD-E	99-14-029	388-290-475	NEW	99-14-023
388- 78A-055	AMD-XA	99-09-052	388-165-110	RECOD	99-15-076	388-290-500	NEW-P	99-08-121
388- 78A-055	AMD	99-15-067	388-165-120	RECOD	99-15-076	388-290-500	NEW	99-14-023
388- 78A-150	AMD-XA	99-09-052	388-165-140	RECOD	99-15-076	388-290-525	NEW-P	99-08-121
388- 78A-150	AMD	99-15-067	388-165-235	RECOD	99-15-076	388-290-525	NEW	99-14-023
388- 78A-240	AMD-XA	99-09-052	388-200-1160	PREP	99-08-040	388-290-525	PREP	99-17-024
388- 78A-240	AMD	99-15-067	388-290	PREP	99-17-024	388-290-550	NEW-P	99-08-121
388- 78A-265	AMD-XA	99-09-052	388-290-010	AMD-P	99-08-121	388-290-550	NEW	99-14-023
388- 78A-265	AMD	99-15-067	388-290-010	AMD	99-14-023	388-290-600	NEW-P	99-08-121
388- 78A-320	AMD-XA	99-09-052	388-290-015	NEW-P	99-08-121	388-290-600	NEW	99-14-023
388- 78A-320	AMD	99-15-067	388-290-015	NEW	99-14-023	388-290-650	NEW-P	99-08-121
388- 78A-330	AMD-XA	99-09-052	388-290-020	REP-P	99-08-121	388-290-650	NEW	99-14-023
388- 78A-330	AMD	99-15-067	388-290-020	REP	99-14-023	388-290-700	NEW-P	99-08-121
388- 86-0022	PREP	99-05-044	388-290-025	REP-P	99-08-121	388-290-700	NEW	99-14-023
388- 86-018	PREP	99-13-190	388-290-025	REP	99-14-023	388-290-750	NEW-P	99-08-121
388- 86-045	REP-P	99-11-053	388-290-030	REP-P	99-08-121	388-290-750	NEW	99-14-023
388- 86-045	REP	99-16-069	388-290-030	REP	99-14-023	388-290-800	NEW-P	99-08-121
388- 86-047	REP-P	99-05-073	388-290-035	REP-P	99-08-121	388-290-800	NEW	99-14-023
388- 86-047	REP	99-09-007	388-290-035	REP	99-14-023	388-290-850	NEW-P	99-08-121
388- 86-059	PREP	99-06-043	388-290-050	REP-P	99-08-121	388-290-850	NEW	99-14-023
388- 86-073	PREP	99-03-075	388-290-050	REP	99-14-023	388-290-850	PREP	99-17-024
388- 86-073	REP-P	99-11-071	388-290-055	REP-P	99-08-121	388-290-900	NEW-P	99-08-121
388- 86-073	REP	99-16-068	388-290-055	REP	99-14-023	388-290-900	NEW	99-14-023
388- 86-090	PREP	99-11-084	388-290-060	REP-P	99-08-121	388-290-905	NEW	99-14-023
388- 86-097	REP-P	99-08-122	388-290-060	REP	99-14-023	388-290-910	NEW	99-14-023
388- 86-097	REP	99-13-049	388-290-070	REP-P	99-08-121	388-290-915	NEW	99-14-023
388- 86-098	REP-P	99-11-074	388-290-070	REP	99-14-023	388-290-920	NEW	99-14-023
388- 86-098	REP	99-16-071	388-290-075	NEW-P	99-08-121	388-290-920	PREP	99-17-024
388- 86-100	AMD-W	99-08-080	388-290-075	NEW	99-14-023	388-290-925	NEW	99-14-023
388- 86-100	PREP	99-13-191	388-290-080	REP-P	99-08-121	388-290-930	NEW	99-14-023
388- 86-112	REP-P	99-14-038	388-290-080	REP	99-14-023	388-290-935	NEW	99-14-023
388- 86-112	REP	99-17-111	388-290-090	REP-P	99-08-121	388-290-940	NEW	99-14-023
388- 86-200	PREP	99-06-043	388-290-090	REP	99-14-023	388-290-945	NEW	99-14-023
388- 86-200	AMD-W	99-08-080	388-290-1000	NEW-P	99-08-121	388-290-950	NEW	99-14-023
388- 87-0005	PREP	99-05-044	388-290-105	REP-P	99-08-121	388-290-950	PREP	99-17-024
388- 87-0007	PREP	99-05-044	388-290-105	REP	99-14-023	388-310	PREP	99-14-024
388- 87-0008	PREP	99-05-044	388-290-1050	NEW-P	99-08-121	388-310-0100	AMD-P	99-05-072
388- 87-0010	PREP	99-05-044	388-290-1100	NEW-P	99-08-121	388-310-0100	AMD	99-08-051
388- 87-0011	PREP	99-05-044	388-290-1150	NEW-P	99-08-121	388-310-0200	AMD-P	99-05-072
388- 87-0020	PREP	99-05-044	388-290-1200	NEW-P	99-08-121	388-310-0200	AMD	99-08-051
388- 87-0025	PREP	99-05-044	388-290-125	NEW-P	99-08-121	388-310-0200	AMD-E	99-14-041
388- 87-0105	PREP	99-05-044	388-290-125	NEW	99-14-023	388-310-0300	AMD-P	99-05-071
388- 87-0250	PREP	99-05-044	388-290-1250	NEW-P	99-08-121	388-310-0300	AMD	99-10-027
388- 87-048	PREP	99-13-190	388-290-1300	NEW-P	99-08-121	388-310-0300	AMD-E	99-14-041
388- 87-065	REP-P	99-11-053	388-290-1350	NEW-P	99-08-121	388-310-0400	AMD-P	99-05-071
388- 87-065	REP	99-16-069	388-290-1375	NEW-P	99-08-121	388-310-0400	AMD	99-10-027
388- 87-079	PREP	99-06-043	388-290-1400	NEW-P	99-08-121	388-310-0500	AMD-P	99-05-071
388- 87-080	REP-P	99-08-122	388-290-150	NEW-P	99-08-121	388-310-0500	AMD	99-10-027
388- 87-080	REP	99-13-049	388-290-150	NEW	99-14-023	388-310-0600	AMD-P	99-05-071
388- 87-090	PREP	99-11-084	388-290-200	NEW-P	99-08-121	388-310-0600	AMD	99-10-027
388- 87-110	REP-W	99-11-060	388-290-200	NEW	99-14-023	388-310-0700	AMD-P	99-05-071
388- 96-010	AMD-E	99-14-029	388-290-270	NEW-P	99-08-121	388-310-0700	AMD	99-10-027
388- 96-218	AMD-E	99-14-029	388-290-270	NEW	99-14-023	388-310-0800	AMD-P	99-05-071
388- 96-559	AMD-E	99-14-029	388-290-280	NEW-P	99-08-121	388-310-0800	AMD-S	99-10-028
388- 96-565	AMD-E	99-14-029	388-290-280	NEW	99-14-023	388-310-0800	AMD	99-14-043
388- 96-709	AMD-E	99-14-029	388-290-300	NEW-P	99-08-121	388-310-0900	AMD-P	99-05-071
388- 96-710	AMD-E	99-14-029	388-290-300	NEW	99-14-023	388-310-0900	AMD	99-10-027
388- 96-714	NEW-E	99-14-029	388-290-350	NEW-P	99-08-121	388-310-1000	AMD-P	99-05-071
388- 96-723	AMD-E	99-14-029	388-290-350	NEW	99-14-023	388-310-1000	AMD	99-10-027
388- 96-724	AMD-E	99-14-029	388-290-375	NEW-P	99-08-121	388-310-1050	AMD-P	99-05-071
388- 96-725	AMD-E	99-14-029	388-290-375	NEW	99-14-023	388-310-1050	AMD	99-10-027
388- 96-726	AMD-E	99-14-029	388-290-400	NEW-P	99-08-121	388-310-1100	AMD-P	99-05-071
388- 96-730	NEW-E	99-14-029	388-290-400	NEW	99-14-023	388-310-1100	AMD	99-10-027
388- 96-731	NEW-E	99-14-029	388-290-400	PREP	99-17-024	388-310-1200	AMD-P	99-05-071
388- 96-748	NEW-E	99-14-029	388-290-450	NEW-P	99-08-121	388-310-1200	AMD	99-10-027
388- 96-767	AMD-E	99-14-029	388-290-450	NEW	99-14-023	388-310-1300	AMD-P	99-05-072
388- 96-771	AMD-E	99-14-029	388-290-475	NEW-P	99-08-121	388-310-1300	AMD	99-08-051

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-310-1400	AMD-P	99-05-071	388-330-040	PREP	99-07-039	388-450-0045	AMD	99-16-024
388-310-1400	AMD	99-10-027	388-330-050	PREP	99-07-039	388-450-0050	PREP	99-03-040
388-310-1500	AMD-P	99-05-071	388-330-060	PREP	99-07-039	388-450-0050	AMD-P	99-06-098
388-310-1500	AMD	99-10-027	388-400	PREP	99-07-105	388-450-0050	AMD	99-09-054
388-310-1600	AMD-P	99-05-071	388-400-0020	AMD-P	99-04-102	388-450-0060	AMD-P	99-12-119
388-310-1600	AMD	99-10-027	388-400-0020	AMD	99-08-050	388-450-0060	AMD	99-16-024
388-310-1700	AMD-P	99-05-071	388-406-0015	AMD-P	99-12-121	388-450-0065	AMD-P	99-12-119
388-310-1700	AMD	99-10-027	388-406-0015	AMD	99-16-024	388-450-0065	AMD	99-16-024
388-310-1800	AMD-P	99-05-071	388-406-0035	AMD-P	99-12-121	388-450-0080	AMD-P	99-12-119
388-310-1800	AMD	99-10-027	388-406-0035	AMD	99-16-024	388-450-0080	AMD	99-16-024
388-310-1850	NEW-P	99-11-072	388-406-0040	AMD-P	99-12-121	388-450-0085	AMD-P	99-12-119
388-310-1850	NEW	99-14-044	388-406-0040	AMD	99-16-024	388-450-0085	AMD	99-16-024
388-310-1900	AMD-P	99-05-071	388-406-0050	AMD-P	99-12-121	388-450-0100	AMD-P	99-12-116
388-310-1900	AMD	99-10-027	388-406-0050	AMD	99-16-024	388-450-0100	AMD	99-16-024
388-320	PREP	99-07-104	388-408-0010	AMD-P	99-10-105	388-450-0106	PREP	99-03-040
388-320-010	REP-P	99-11-085	388-408-0010	AMD	99-14-045	388-450-0106	AMD-P	99-12-116
388-320-010	REP	99-15-065	388-408-0015	AMD-P	99-10-105	388-450-0106	AMD	99-16-024
388-320-030	REP-P	99-11-085	388-408-0015	AMD	99-14-045	388-450-0116	PREP	99-03-040
388-320-030	REP	99-15-065	388-408-0035	AMD-P	99-12-120	388-450-0116	AMD-P	99-12-116
388-320-100	REP-P	99-11-085	388-412-0005	AMD-P	99-12-117	388-450-0116	AMD	99-16-024
388-320-100	REP	99-15-065	388-412-0005	AMD	99-16-024	388-450-0140	AMD-P	99-12-116
388-320-110	REP-P	99-11-085	388-412-0015	AMD-P	99-12-117	388-450-0140	AMD	99-16-024
388-320-110	REP	99-15-065	388-412-0015	AMD	99-16-024	388-450-0140	AMD	99-16-024
388-320-115	REP-P	99-11-085	388-416-0005	AMD-P	99-12-117	388-450-0160	AMD-P	99-12-116
388-320-115	REP	99-15-065	388-416-0005	AMD	99-16-024	388-450-0160	AMD	99-16-024
388-320-130	REP-P	99-11-085	388-418-0012	NEW-P	99-12-121	388-450-0185	AMD-P	99-12-116
388-320-130	REP	99-15-065	388-418-0012	NEW	99-16-024	388-450-0185	AMD	99-16-024
388-320-132	REP-P	99-11-085	388-418-0025	AMD-P	99-07-137	388-450-0190	AMD-P	99-12-116
388-320-132	REP	99-15-065	388-418-0025	AMD	99-10-064	388-450-0190	AMD	99-16-024
388-320-133	REP-P	99-11-085	388-418-0030	AMD-P	99-12-121	388-450-0195	AMD-E	99-05-046
388-320-133	REP	99-15-065	388-418-0030	AMD	99-16-024	388-450-0195	AMD-P	99-06-088
388-320-135	REP-P	99-11-085	388-424-0005	AMD-P	99-13-126	388-450-0195	AMD	99-09-055
388-320-135	REP	99-15-065	388-424-0005	AMD	99-17-023	388-450-0200	AMD-P	99-12-116
388-320-140	REP-P	99-11-085	388-424-0010	AMD-P	99-13-126	388-450-0200	AMD	99-16-024
388-320-140	REP	99-15-065	388-424-0010	AMD	99-17-023	388-450-0215	AMD-P	99-12-118
388-320-170	REP-P	99-11-085	388-426	PREP	99-08-120	388-450-0215	AMD	99-16-024
388-320-170	REP	99-15-065	388-426-0005	AMD-P	99-13-192	388-450-0220	AMD-P	99-12-118
388-320-205	REP-P	99-11-085	388-426-0005	AMD	99-17-025	388-450-0220	AMD	99-16-024
388-320-205	REP	99-15-065	388-434-0005	PREP	99-04-054	388-450-0225	AMD-P	99-12-118
388-320-210	REP-P	99-11-085	388-436-0001	REP-P	99-11-073	388-450-0225	AMD	99-16-024
388-320-210	REP	99-15-065	388-436-0001	REP	99-14-046	388-450-0235	AMD-P	99-12-118
388-320-220	REP-P	99-11-085	388-436-0002	NEW-P	99-11-073	388-450-0235	AMD	99-06-088
388-320-220	REP	99-15-065	388-436-0002	NEW	99-14-046	388-450-0250	AMD-P	99-05-046
388-320-225	REP-P	99-11-085	388-436-0005	REP-P	99-11-073	388-450-0250	AMD	99-06-088
388-320-225	REP	99-15-065	388-436-0005	REP	99-14-046	388-452-0005	AMD-P	99-09-055
388-320-235	REP-P	99-11-085	388-436-0030	AMD-E	99-14-042	388-452-0005	AMD	99-11-075
388-320-235	REP	99-15-065	388-438-0110	PREP	99-10-047	388-462-0005	REP-P	99-10-105
388-320-240	REP-P	99-11-085	388-440	PREP	99-08-120	388-462-0005	REP	99-14-045
388-320-240	REP	99-15-065	388-442-0010	AMD-P	99-12-120	388-462-0010	AMD-P	99-10-105
388-320-350	REP-P	99-03-076	388-442-0010	AMD	99-16-024	388-462-0010	AMD	99-14-045
388-320-350	REP	99-06-044	388-444-0020	AMD-W	99-14-078	388-462-0011	NEW	99-14-045
388-320-360	REP-P	99-03-076	388-444-0035	AMD	99-07-024	388-462-0020	NEW-P	99-10-105
388-320-360	REP	99-06-044	388-444-0040	AMD	99-07-024	388-470-0005	PREP	99-03-040
388-320-370	REP-P	99-03-076	388-444-0045	AMD	99-07-024	388-470-0010	PREP	99-03-040
388-320-370	REP	99-06-044	388-444-0075	AMD	99-07-024	388-470-0012	NEW-P	99-06-099
388-320-375	NEW-P	99-03-076	388-448-0001	PREP	99-04-055	388-470-0012	NEW	99-09-053
388-320-375	NEW	99-06-044	388-450-0005	AMD-P	99-12-118	388-470-0015	PREP	99-03-040
388-320-375	REP-P	99-11-085	388-450-0005	AMD	99-16-024	388-470-0020	PREP	99-03-040
388-320-375	REP	99-15-065	388-450-0015	AMD-P	99-13-192	388-470-0025	PREP	99-03-040
388-320-450	REP-P	99-11-085	388-450-0015	AMD	99-17-025	388-470-0025	AMD-P	99-12-117
388-320-450	REP	99-15-065	388-450-0025	AMD-P	99-13-192	388-470-0025	AMD	99-16-024
388-320-460	REP-P	99-11-085	388-450-0025	AMD	99-17-025	388-470-0035	AMD-P	99-12-117
388-320-460	REP	99-15-065	388-450-0030	AMD-P	99-13-192	388-470-0035	AMD	99-16-024
388-330-010	PREP	99-07-039	388-450-0030	AMD	99-17-025	388-470-0045	AMD-P	99-12-117
388-330-020	PREP	99-07-039	388-450-0035	AMD-P	99-12-119	388-470-0045	AMD	99-16-024
388-330-030	PREP	99-07-039	388-450-0035	AMD	99-16-024	388-470-0050	PREP	99-03-040
388-330-035	PREP	99-07-039	388-450-0045	AMD-P	99-12-119	388-470-0055	AMD-P	99-12-117
						388-470-0055	AMD	99-16-024

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-470-0070	PREP	99-03-040	388-513-1360	AMD	99-06-045	388-539-0500	PREP	99-13-190
388-470-0075	AMD-P	99-12-117	388-513-1360	AMD-P	99-16-067	388-540-001	PREP	99-05-044
388-470-0075	AMD	99-16-024	388-513-1365	AMD	99-06-045	388-540-010	PREP	99-05-044
388-472-0005	AMD-P	99-13-192	388-513-1365	AMD-P	99-16-067	388-540-020	PREP	99-05-044
388-472-0005	AMD	99-17-025	388-513-1366	NEW-P	99-16-067	388-540-040	PREP	99-05-044
388-476-0005	AMD-P	99-13-192	388-513-1380	AMD-P	99-06-100	388-540-050	PREP	99-05-044
388-476-0005	AMD	99-17-025	388-513-1380	AMD-E	99-08-016	388-543-1000	NEW-W	99-08-080
388-478-0010	AMD-P	99-12-120	388-513-1380	AMD	99-11-017	388-543-1100	NEW-W	99-08-080
388-478-0010	AMD	99-16-024	388-513-1395	AMD	99-06-045	388-543-1200	NEW-W	99-08-080
388-478-0015	AMD	99-04-056	388-513-1395	AMD-P	99-16-067	388-543-1300	NEW-W	99-08-080
388-478-0025	REP-P	99-12-116	388-513-1396	AMD-P	99-16-067	388-543-1400	NEW-W	99-08-080
388-478-0025	REP	99-16-024	388-515-1505	AMD-W	99-13-096	388-543-1500	NEW-W	99-08-080
388-478-0055	AMD	99-04-103	388-515-1510	AMD	99-06-045	388-543-1600	NEW-W	99-08-080
388-478-0055	PREP	99-05-045	388-515-1510	AMD-P	99-16-067	388-543-1700	NEW-W	99-08-080
388-478-0055	AMD-P	99-15-078	388-515-1530	AMD	99-06-045	388-543-1800	NEW-W	99-08-080
388-478-0060	AMD	99-05-074	388-515-1530	AMD-P	99-16-067	388-543-1900	NEW-W	99-08-080
388-478-0060	AMD-P	99-12-120	388-526-2610	PREP	99-05-044	388-543-2000	NEW-W	99-08-080
388-478-0060	AMD	99-16-024	388-527	AMD-P	99-07-025	388-543-2100	NEW-W	99-08-080
388-478-0070	AMD-P	99-08-118	388-527	AMD	99-11-076	388-543-2200	NEW-W	99-08-080
388-478-0070	AMD-E	99-08-119	388-527-2700	NEW-P	99-07-025	388-543-2300	NEW-W	99-08-080
388-478-0070	AMD	99-11-054	388-527-2700	NEW	99-11-076	388-543-2400	NEW-W	99-08-080
388-478-0075	PREP	99-07-103	388-527-2730	AMD-P	99-07-025	388-543-2500	NEW-W	99-08-080
388-478-0075	AMD-E	99-08-001	388-527-2730	AMD	99-11-076	388-543-2600	NEW-W	99-08-080
388-478-0075	AMD-P	99-15-044	388-527-2733	NEW-P	99-07-025	388-543-2700	NEW-W	99-08-080
388-478-0075	AMD-E	99-15-045	388-527-2733	NEW	99-11-076	388-543-2800	NEW-W	99-08-080
388-478-0080	AMD-P	99-08-118	388-527-2735	REP-P	99-07-025	388-543-2900	NEW-W	99-08-080
388-478-0080	AMD-E	99-08-119	388-527-2735	REP	99-11-076	388-543-3000	NEW-W	99-08-080
388-478-0080	AMD	99-11-054	388-527-2737	NEW-P	99-07-025	388-545-0500	PREP	99-11-084
388-478-0085	PREP	99-07-103	388-527-2737	NEW	99-11-076	388-545-300	NEW-P	99-11-071
388-478-0085	AMD-E	99-08-001	388-527-2740	AMD-P	99-07-025	388-545-300	NEW	99-16-068
388-478-0085	AMD-P	99-15-044	388-527-2740	AMD	99-11-076	388-545-700	NEW-P	99-11-074
388-478-0085	AMD-E	99-15-045	388-527-2742	AMD-P	99-07-025	388-545-700	NEW	99-16-071
388-482-0005	AMD-P	99-12-117	388-527-2742	AMD	99-11-076	388-546	PREP	99-13-191
388-482-0005	AMD	99-16-024	388-527-2750	AMD-P	99-07-025	388-550-1050	AMD	99-06-046
388-484-0005	AMD-P	99-04-102	388-527-2750	AMD	99-11-076	388-550-1050	PREP	99-06-087
388-484-0005	AMD	99-08-050	388-527-2752	REP-P	99-07-025	388-550-1050	AMD-P	99-09-088
388-501-0130	PREP	99-05-044	388-527-2752	REP	99-11-076	388-550-1050	AMD	99-14-039
388-501-0160	PREP	99-08-040	388-527-2753	REP-P	99-07-025	388-550-1200	AMD	99-06-046
388-501-0165	PREP	99-08-041	388-527-2753	REP	99-11-076	388-550-2300	REP-P	99-14-038
388-501-0175	PREP	99-05-044	388-527-2754	AMD-P	99-07-025	388-550-2300	REP	99-17-111
388-502-0220	PREP	99-06-085	388-527-2754	AMD	99-11-076	388-550-2431	NEW	99-06-046
388-502-0220	AMD-P	99-11-052	388-527-2790	AMD-P	99-07-025	388-550-2501	NEW-P	99-14-038
388-502-0220	AMD	99-16-070	388-527-2790	AMD	99-11-076	388-550-2501	NEW	99-17-111
388-502-0250	PREP	99-05-044	388-527-2795	NEW-P	99-07-025	388-550-2511	NEW-P	99-14-038
388-503-0310	REP-XR	99-15-042	388-527-2795	NEW	99-11-076	388-550-2511	NEW	99-17-111
388-505-0210	AMD-P	99-13-126	388-530-1800	PREP	99-05-044	388-550-2521	NEW-P	99-14-038
388-505-0210	AMD	99-17-023	388-530-2050	PREP	99-05-044	388-550-2521	NEW	99-17-111
388-505-0540	PREP	99-05-044	388-533	PREP	99-06-043	388-550-2531	NEW-P	99-14-038
388-505-0595	PREP	99-05-044	388-535-1000	REP	99-07-023	388-550-2531	NEW	99-17-111
388-510-1005	REP-XR	99-15-042	388-535-1010	NEW	99-07-023	388-550-2541	NEW-P	99-14-038
388-511-1130	PREP	99-05-044	388-535-1050	AMD	99-07-023	388-550-2541	NEW	99-17-111
388-513-1300	REP-P	99-16-067	388-535-1060	NEW	99-07-023	388-550-2551	NEW-P	99-14-038
388-513-1301	NEW-P	99-16-067	388-535-1080	NEW	99-07-023	388-550-2551	NEW	99-17-111
388-513-1305	AMD	99-06-045	388-535-1100	AMD	99-07-023	388-550-2561	NEW-P	99-14-038
388-513-1305	AMD-P	99-16-067	388-535-1150	AMD	99-07-023	388-550-2561	NEW	99-17-111
388-513-1310	REP-P	99-16-067	388-535-1200	AMD	99-07-023	388-550-2800	AMD	99-06-046
388-513-1315	AMD	99-06-045	388-535-1220	NEW	99-07-023	388-550-2800	PREP	99-06-084
388-513-1315	AMD-P	99-16-067	388-535-1230	NEW	99-07-023	388-550-2800	AMD-P	99-09-091
388-513-1320	AMD	99-06-045	388-535-1240	NEW	99-07-023	388-550-2800	AMD	99-14-027
388-513-1320	AMD-P	99-16-067	388-535-1250	AMD	99-07-023	388-550-2900	AMD	99-06-046
388-513-1325	NEW-P	99-16-067	388-535-1260	NEW	99-07-023	388-550-2900	PREP	99-06-084
388-513-1330	AMD	99-06-045	388-535-1300	AMD	99-07-023	388-550-2900	AMD-P	99-09-091
388-513-1330	AMD-P	99-16-067	388-535-1350	AMD	99-07-023	388-550-2900	AMD	99-14-027
388-513-1340	AMD-W	99-13-096	388-535-1400	AMD	99-07-023	388-550-3000	AMD	99-06-046
388-513-1345	AMD-W	99-13-096	388-535-1450	AMD	99-07-023	388-550-3100	AMD	99-06-046
388-513-1350	AMD	99-06-045	388-535-1500	AMD	99-07-023	388-550-3381	NEW-P	99-14-038
388-513-1350	AMD-P	99-16-067	388-535-1550	AMD	99-07-023	388-550-3381	NEW	99-17-111

Table

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-550-3401	NEW-P	99-14-038	388-551-1000	NEW-P	99-05-073	388-552-220	NEW	99-13-049
388-550-3401	NEW	99-17-111	388-551-1000	NEW	99-09-007	388-552-230	NEW-P	99-08-122
388-550-3450	PREP	99-06-084	388-551-1010	NEW-P	99-05-073	388-552-230	NEW	99-13-049
388-550-3450	AMD-P	99-09-091	388-551-1010	NEW	99-09-007	388-552-240	NEW-P	99-08-122
388-550-3450	AMD	99-14-027	388-551-1200	NEW-P	99-05-073	388-552-240	NEW	99-13-049
388-550-3500	AMD	99-06-046	388-551-1200	NEW	99-09-007	388-552-300	NEW-P	99-08-122
388-550-3500	PREP	99-06-084	388-551-1210	NEW-P	99-05-073	388-552-300	NEW	99-13-049
388-550-3500	AMD-P	99-09-091	388-551-1210	NEW	99-09-007	388-552-310	NEW-P	99-08-122
388-550-3500	AMD	99-14-027	388-551-1300	NEW-P	99-05-073	388-552-310	NEW	99-13-049
388-550-3700	AMD	99-06-046	388-551-1300	NEW	99-09-007	388-552-320	NEW-P	99-08-122
388-550-3900	PREP	99-06-084	388-551-1310	NEW-P	99-05-073	388-552-320	NEW	99-13-049
388-550-3900	AMD-P	99-09-091	388-551-1310	NEW	99-09-007	388-552-330	NEW-P	99-08-122
388-550-3900	AMD	99-14-027	388-551-1315	NEW-P	99-05-073	388-552-330	NEW	99-13-049
388-550-4100	PREP	99-06-084	388-551-1315	NEW	99-09-007	388-552-340	NEW-P	99-08-122
388-550-4100	AMD-P	99-09-091	388-551-1320	NEW-P	99-05-073	388-552-340	NEW	99-13-049
388-550-4100	AMD	99-14-027	388-551-1320	NEW	99-09-007	388-552-350	NEW-P	99-08-122
388-550-4500	AMD	99-06-046	388-551-1330	NEW-P	99-05-073	388-552-350	NEW	99-13-049
388-550-4500	PREP	99-06-084	388-551-1330	NEW	99-09-007	388-552-360	NEW-P	99-08-122
388-550-4500	AMD-P	99-09-091	388-551-1340	NEW-P	99-05-073	388-552-360	NEW	99-13-049
388-550-4500	AMD-W	99-11-050	388-551-1340	NEW	99-09-007	388-552-370	NEW-P	99-08-122
388-550-4500	AMD-P	99-13-050	388-551-1350	NEW-P	99-05-073	388-552-370	NEW	99-13-049
388-550-4500	AMD-S	99-17-110	388-551-1350	NEW	99-09-007	388-552-380	NEW-P	99-08-122
388-550-4700	AMD	99-06-046	388-551-1360	NEW-P	99-05-073	388-552-380	NEW	99-13-049
388-550-4800	AMD	99-06-046	388-551-1360	NEW	99-09-007	388-552-390	NEW-P	99-08-122
388-550-4800	AMD-P	99-09-090	388-551-1400	NEW-P	99-05-073	388-552-390	NEW	99-13-049
388-550-4800	AMD	99-14-026	388-551-1400	NEW	99-09-007	388-552-400	NEW-P	99-08-122
388-550-4900	PREP	99-06-083	388-551-1410	NEW-P	99-05-073	388-552-400	NEW	99-13-049
388-550-4900	AMD-P	99-09-087	388-551-1410	NEW	99-09-007	388-552-410	NEW-P	99-08-122
388-550-4900	AMD	99-14-040	388-551-1500	NEW-P	99-05-073	388-552-410	NEW	99-13-049
388-550-5000	PREP	99-06-083	388-551-1500	NEW	99-09-007	388-552-420	NEW-P	99-08-122
388-550-5000	AMD-P	99-09-087	388-551-1510	NEW-P	99-05-073	388-552-420	NEW	99-13-049
388-550-5000	AMD	99-14-040	388-551-1510	NEW	99-09-007	388-810-005	NEW-P	99-16-098
388-550-5100	PREP	99-06-083	388-551-1520	NEW-P	99-05-073	388-810-010	NEW-P	99-16-098
388-550-5100	AMD-P	99-09-087	388-551-1520	NEW	99-09-007	388-810-020	NEW-P	99-16-098
388-550-5100	AMD	99-14-025	388-551-1530	NEW-P	99-05-073	388-810-030	NEW-P	99-16-098
388-550-5110	PREP	99-06-083	388-551-1530	NEW	99-09-007	388-810-040	NEW-P	99-16-098
388-550-5110	NEW-P	99-09-087	388-551-2000	NEW-P	99-11-053	388-810-050	NEW-P	99-16-098
388-550-5110	NEW-W	99-13-125	388-551-2000	NEW	99-16-069	388-810-060	NEW-P	99-16-098
388-550-5120	PREP	99-06-083	388-551-2010	NEW-P	99-11-053	388-810-070	NEW-P	99-16-098
388-550-5120	NEW-P	99-09-087	388-551-2010	NEW	99-16-069	388-810-080	NEW-P	99-16-098
388-550-5120	NEW-W	99-13-125	388-551-2020	NEW-P	99-11-053	388-810-090	NEW-P	99-16-098
388-550-5150	PREP	99-06-083	388-551-2020	NEW	99-16-069	388-825-020	RECOD-P	99-15-043
388-550-5150	AMD-P	99-09-087	388-551-2100	NEW-P	99-11-053	388-825-260	NEW-P	99-15-043
388-550-5150	AMD	99-14-025	388-551-2100	NEW	99-16-069	388-825-262	NEW-P	99-15-043
388-550-5200	PREP	99-06-083	388-551-2110	NEW-P	99-11-053	388-825-264	NEW-P	99-15-043
388-550-5200	AMD-P	99-09-087	388-551-2110	NEW	99-16-069	388-825-266	NEW-P	99-15-043
388-550-5200	AMD	99-14-025	388-551-2120	NEW-P	99-11-053	388-825-268	NEW-P	99-15-043
388-550-5250	PREP	99-06-083	388-551-2120	NEW	99-16-069	388-825-270	NEW-P	99-15-043
388-550-5250	AMD-P	99-09-087	388-551-2130	NEW-P	99-11-053	388-825-272	NEW-P	99-15-043
388-550-5250	AMD	99-14-025	388-551-2130	NEW	99-16-069	388-825-276	NEW-P	99-15-043
388-550-5300	PREP	99-06-083	388-551-2200	NEW-P	99-11-053	388-825-278	NEW-P	99-15-043
388-550-5300	AMD-P	99-09-087	388-551-2200	NEW	99-16-069	388-825-280	NEW-P	99-15-043
388-550-5300	AMD	99-14-025	388-551-2210	NEW-P	99-11-053	388-825-282	NEW-P	99-15-043
388-550-5350	PREP	99-06-083	388-551-2210	NEW	99-16-069	388-825-284	NEW-P	99-15-043
388-550-5350	AMD-P	99-09-087	388-551-2220	NEW-P	99-11-053	388-890-0005	NEW-P	99-12-030
388-550-5350	AMD	99-14-025	388-551-2220	NEW	99-16-069	388-890-0010	NEW-P	99-12-030
388-550-5400	PREP	99-06-083	388-552-001	NEW-P	99-08-122	388-890-0015	NEW-P	99-12-030
388-550-5400	AMD-P	99-09-087	388-552-001	NEW	99-13-049	388-890-0020	NEW-P	99-12-030
388-550-5400	AMD	99-14-025	388-552-005	NEW-P	99-08-122	388-890-0025	NEW-P	99-12-030
388-550-5600	PREP	99-06-085	388-552-005	NEW	99-13-049	388-890-0030	NEW-P	99-12-030
388-550-5600	AMD-P	99-11-052	388-552-100	NEW-P	99-08-122	388-890-0035	NEW-P	99-12-030
388-550-5600	AMD	99-16-070	388-552-100	NEW	99-13-049	388-890-0040	NEW-P	99-12-030
388-550-6000	AMD	99-06-046	388-552-200	NEW-P	99-08-122	388-890-0045	NEW-P	99-12-030
388-550-6000	PREP	99-06-086	388-552-200	NEW	99-13-049	388-890-0050	NEW-P	99-12-030
388-550-6000	AMD-P	99-09-089	388-552-210	NEW-P	99-08-122	388-890-0055	NEW-P	99-12-030
388-550-6000	PREP	99-12-071	388-552-210	NEW	99-13-049	388-890-0060	NEW-P	99-12-030
388-550-6000	AMD	99-14-028	388-552-220	NEW-P	99-08-122	388-890-0065	NEW-P	99-12-030





Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-890-1205	NEW-P	99-12-030	390-14-105	REP	99-12-052	391-55-200	AMD	99-14-060
388-890-1210	NEW-P	99-12-030	390-14-110	PREP	99-06-061	391-55-205	AMD-P	99-10-107
388-890-1215	NEW-P	99-12-030	390-14-110	AMD-P	99-09-071	391-55-205	AMD	99-14-060
388-890-1220	NEW-P	99-12-030	390-14-110	AMD	99-12-065	391-55-210	AMD-P	99-10-107
388-890-1225	NEW-P	99-12-030	390-16-011	PREP	99-16-044	391-55-210	AMD	99-14-060
388-890-1230	NEW-P	99-12-030	390-16-012	PREP	99-16-045	391-55-215	AMD-P	99-10-107
388-890-1235	NEW-P	99-12-030	390-16-032	PREP	99-16-043	391-55-215	AMD	99-14-060
388-890-1240	NEW-P	99-12-030	390-16-041	PREP	99-16-042	391-55-220	AMD-P	99-10-107
388-890-1245	NEW-P	99-12-030	390-17-030	PREP	99-06-062	391-55-220	AMD	99-14-060
388-890-1250	NEW-P	99-12-030	390-17-030	AMD-P	99-09-072	391-55-225	AMD-P	99-10-107
388-890-1255	NEW-P	99-12-030	390-17-030	AMD	99-12-066	391-55-225	AMD	99-14-060
388-890-1260	NEW-P	99-12-030	390-18-020	PREP	99-06-063	391-55-230	AMD-P	99-10-107
388-890-1265	NEW-P	99-12-030	390-18-020	AMD-P	99-09-073	391-55-230	AMD	99-14-060
388-890-1270	NEW-P	99-12-030	390-18-020	AMD	99-12-067	391-55-235	AMD-P	99-10-107
388-890-1275	NEW-P	99-12-030	390-18-050	PREP	99-06-064	391-55-235	AMD	99-14-060
388-890-1280	NEW-P	99-12-030	390-18-050	AMD-P	99-09-074	391-55-240	AMD-P	99-10-107
388-890-1285	NEW-P	99-12-030	390-18-050	AMD	99-12-068	391-55-240	AMD	99-14-060
388-890-1290	NEW-P	99-12-030	390-20-014	PREP	99-06-065	391-55-245	AMD-P	99-10-107
388-890-1295	NEW-P	99-12-030	390-20-014	AMD-P	99-09-075	391-55-245	AMD	99-14-060
388-890-1300	NEW-P	99-12-030	390-20-014	AMD	99-12-069	391-55-255	AMD-P	99-10-107
388-890-1305	NEW-P	99-12-030	390-20-015	PREP	99-06-066	391-55-255	AMD	99-14-060
388-890-1310	NEW-P	99-12-030	390-20-015	AMD-P	99-09-076	391-55-265	NEW-P	99-10-107
389-12-020	AMD-P	99-16-034	390-20-015	AMD	99-12-070	391-55-265	NEW	99-14-060
389-12-030	AMD-P	99-16-034	390-20-023	PREP	99-06-067	391-55-310	AMD-P	99-10-107
389-12-040	AMD-P	99-16-034	390-20-023	REP-P	99-09-059	391-55-310	AMD	99-14-060
389-12-050	AMD-P	99-16-034	390-20-023	REP	99-12-053	391-55-315	AMD-P	99-10-107
389-12-060	AMD-P	99-16-034	390-20-100	PREP	99-06-068	391-55-315	AMD	99-14-060
389-12-065	AMD-P	99-16-034	390-20-100	REP-P	99-09-060	391-55-320	AMD-P	99-10-107
389-12-071	AMD-P	99-16-034	390-20-100	REP	99-12-054	391-55-320	AMD	99-14-060
389-12-075	AMD-P	99-16-034	390-20-115	PREP	99-06-069	391-55-330	AMD-P	99-10-107
389-12-080	AMD-P	99-16-034	390-20-115	REP-P	99-09-061	391-55-330	AMD	99-14-060
389-12-140	AMD-P	99-16-034	390-20-115	REP	99-12-055	391-55-335	AMD-P	99-10-107
389-12-210	AMD-P	99-16-034	391-08	PREP	99-04-013	391-55-335	AMD	99-14-060
389-12-220	AMD-P	99-16-034	391-08-310	AMD-P	99-10-107	391-55-340	AMD-P	99-10-107
389-12-230	AMD-P	99-16-034	391-08-310	AMD	99-14-060	391-55-340	AMD	99-14-060
390-12-255	PREP	99-06-050	391-08-810	AMD-P	99-10-107	391-55-350	AMD-P	99-10-107
390-12-255	AMD-P	99-09-062	391-08-810	AMD	99-14-060	391-55-350	AMD	99-14-060
390-12-255	AMD	99-12-056	391-55	PREP	99-04-013	391-65	PREP	99-04-013
390-14-015	PREP	99-06-051	391-55-001	AMD-P	99-10-107	391-65-001	AMD-P	99-10-107
390-14-015	AMD-P	99-09-063	391-55-001	AMD	99-14-060	391-65-001	AMD	99-14-060
390-14-015	AMD	99-12-057	391-55-002	AMD-P	99-10-107	391-65-002	AMD-P	99-10-107
390-14-020	PREP	99-06-052	391-55-002	AMD	99-14-060	391-65-002	AMD	99-14-060
390-14-020	AMD-P	99-09-064	391-55-010	AMD-P	99-10-107	391-65-010	AMD-P	99-10-107
390-14-020	AMD	99-12-058	391-55-010	AMD	99-14-060	391-65-010	AMD	99-14-060
390-14-025	PREP	99-06-053	391-55-020	NEW-P	99-10-107	391-65-030	AMD-P	99-10-107
390-14-025	AMD-P	99-09-065	391-55-020	NEW	99-14-060	391-65-030	AMD	99-14-060
390-14-025	AMD	99-12-059	391-55-030	AMD-P	99-10-107	391-65-050	AMD-P	99-10-107
390-14-030	PREP	99-06-054	391-55-030	AMD	99-14-060	391-65-050	AMD	99-14-060
390-14-030	AMD-P	99-09-066	391-55-032	AMD-P	99-10-107	391-65-070	AMD-P	99-10-107
390-14-030	AMD	99-12-060	391-55-032	AMD	99-14-060	391-65-070	AMD	99-14-060
390-14-035	PREP	99-06-055	391-55-050	AMD-P	99-10-107	391-65-090	AMD-P	99-10-107
390-14-035	AMD-P	99-09-067	391-55-050	AMD	99-14-060	391-65-090	AMD	99-14-060
390-14-035	AMD	99-12-061	391-55-070	AMD-P	99-10-107	391-65-110	AMD-P	99-10-107
390-14-040	PREP	99-06-056	391-55-070	AMD	99-14-060	391-65-110	AMD	99-14-060
390-14-040	AMD-P	99-09-068	391-55-071	AMD-P	99-10-107	391-65-130	AMD-P	99-10-107
390-14-040	AMD	99-12-062	391-55-071	AMD	99-14-060	391-65-130	AMD	99-14-060
390-14-045	PREP	99-06-057	391-55-090	AMD-P	99-10-107	391-65-150	AMD-P	99-10-107
390-14-045	AMD-P	99-09-069	391-55-090	AMD	99-14-060	391-65-150	AMD	99-14-060
390-14-045	AMD	99-12-063	391-55-110	AMD-P	99-10-107	392-117-045	PREP	99-11-067
390-14-055	PREP	99-06-058	391-55-110	AMD	99-14-060	392-121-031	AMD-E	99-12-087
390-14-055	REP-P	99-09-057	391-55-120	NEW-P	99-10-107	392-121-031	AMD-P	99-15-048
390-14-055	REP	99-12-051	391-55-120	NEW	99-14-060	392-121-10603	REP	99-08-008
390-14-100	PREP	99-06-059	391-55-130	AMD-P	99-10-107	392-121-10604	REP	99-08-008
390-14-100	AMD-P	99-09-070	391-55-130	AMD	99-14-060	392-121-107	AMD	99-08-008
390-14-100	AMD	99-12-064	391-55-150	AMD-P	99-10-107	392-121-138	PREP	99-11-066
390-14-105	PREP	99-06-060	391-55-150	AMD	99-14-060	392-121-182	AMD	99-08-008
390-14-105	REP-P	99-09-058	391-55-200	AMD-P	99-10-107	392-121-183	REP	99-08-008

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
392-121-188	AMD	99-08-008	392-172-075	AMD-P	99-17-101	392-172-230	AMD-P	99-17-101
392-121-201	AMD	99-08-008	392-172-100	AMD-P	99-17-101	392-172-231	NEW-P	99-17-101
392-121-206	AMD	99-08-008	392-172-102	AMD-P	99-17-101	392-172-232	AMD-P	99-17-101
392-121-210	AMD	99-08-008	392-172-104	AMD-P	99-17-101	392-172-23300	NEW-P	99-17-101
392-122-900	PREP	99-11-063	392-172-105	NEW-P	99-17-101	392-172-23305	NEW-P	99-17-101
392-123-047	AMD-E	99-12-087	392-172-106	AMD-P	99-17-101	392-172-234	REP-P	99-17-101
392-123-047	AMD-P	99-15-048	392-172-107	NEW-P	99-17-101	392-172-236	REP-P	99-17-101
392-123-049	AMD-E	99-12-087	392-172-108	AMD-P	99-17-101	392-172-23600	NEW-P	99-17-101
392-123-049	AMD-P	99-15-048	392-172-109	NEW-P	99-17-101	392-172-23605	NEW-P	99-17-101
392-127-015	PREP	99-16-077	392-172-110	REP-P	99-17-101	392-172-23610	NEW-P	99-17-101
392-127-030	PREP	99-16-077	392-172-111	NEW-P	99-17-101	392-172-239	NEW-P	99-17-101
392-127-035	PREP	99-16-077	392-172-112	AMD-P	99-17-101	392-172-240	AMD-P	99-17-101
392-127-040	PREP	99-16-077	392-172-114	AMD-P	99-17-101	392-172-242	AMD-P	99-17-101
392-127-050	PREP	99-16-077	392-172-116	AMD-P	99-17-101	392-172-246	AMD-P	99-17-101
392-127-055	PREP	99-16-077	392-172-118	AMD-P	99-17-101	392-172-300	AMD-P	99-17-101
392-127-060	PREP	99-16-077	392-172-120	AMD-P	99-17-101	392-172-302	AMD-P	99-17-101
392-127-065	PREP	99-16-077	392-172-122	AMD-P	99-17-101	392-172-304	AMD-P	99-17-101
392-127-070	PREP	99-16-077	392-172-124	AMD-P	99-17-101	392-172-306	AMD-P	99-17-101
392-127-085	PREP	99-16-077	392-172-126	AMD-P	99-17-101	392-172-307	NEW-P	99-17-101
392-127-095	PREP	99-16-077	392-172-128	AMD-P	99-17-101	392-172-308	AMD-P	99-17-101
392-127-101	PREP	99-16-077	392-172-132	AMD-P	99-17-101	392-172-309	NEW-P	99-17-101
392-127-106	PREP	99-16-077	392-172-134	AMD-P	99-17-101	392-172-310	AMD-P	99-17-101
392-127-111	PREP	99-16-077	392-172-136	AMD-P	99-17-101	392-172-312	AMD-P	99-17-101
392-127-112	PREP	99-16-077	392-172-138	AMD-P	99-17-101	392-172-313	NEW-P	99-17-101
392-127-810	PREP	99-16-077	392-172-140	AMD-P	99-17-101	392-172-314	AMD-P	99-17-101
392-134-020	AMD-W	99-13-094	392-172-142	AMD-P	99-17-101	392-172-316	AMD-P	99-17-101
392-139	PREP	99-11-064	392-172-144	AMD-P	99-17-101	392-172-317	NEW-P	99-17-101
392-140	PREP	99-11-065	392-172-146	AMD-P	99-17-101	392-172-320	REP-P	99-17-101
392-140-950	NEW-E	99-12-087	392-172-148	AMD-P	99-17-101	392-172-322	REP-P	99-17-101
392-140-950	NEW-P	99-15-048	392-172-150	AMD-P	99-17-101	392-172-324	AMD-P	99-17-101
392-140-951	NEW-E	99-12-087	392-172-152	REP-P	99-17-101	392-172-328	AMD-P	99-17-101
392-140-951	NEW-P	99-15-048	392-172-153	NEW-P	99-17-101	392-172-329	NEW-P	99-17-101
392-140-955	NEW-E	99-12-087	392-172-154	REP-P	99-17-101	392-172-330	AMD-P	99-17-101
392-140-955	NEW-P	99-15-048	392-172-156	AMD-P	99-17-101	392-172-332	AMD-P	99-17-101
392-140-956	NEW-E	99-12-087	392-172-15700	NEW-P	99-17-101	392-172-334	AMD-P	99-17-101
392-140-956	NEW-P	99-15-048	392-172-15705	NEW-P	99-17-101	392-172-338	AMD-P	99-17-101
392-140-957	NEW-E	99-12-087	392-172-158	AMD-P	99-17-101	392-172-340	REP-P	99-17-101
392-140-957	NEW-P	99-15-048	392-172-160	AMD-P	99-17-101	392-172-346	REP-P	99-17-101
392-140-960	NEW-E	99-12-087	392-172-161	NEW-P	99-17-101	392-172-348	NEW-P	99-17-101
392-140-960	NEW-P	99-15-048	392-172-162	AMD-P	99-17-101	392-172-350	AMD-P	99-17-101
392-140-961	NEW-E	99-12-087	392-172-163	NEW-P	99-17-101	392-172-351	NEW-P	99-17-101
392-140-961	NEW-P	99-15-048	392-172-164	AMD-P	99-17-101	392-172-352	AMD-P	99-17-101
392-140-962	NEW-E	99-12-087	392-172-166	AMD-P	99-17-101	392-172-354	AMD-P	99-17-101
392-140-962	NEW-P	99-15-048	392-172-168	REP-P	99-17-101	392-172-356	AMD-P	99-17-101
392-140-965	NEW-E	99-12-087	392-172-170	AMD-P	99-17-101	392-172-358	REP-P	99-17-101
392-140-965	NEW-P	99-15-048	392-172-172	AMD-P	99-17-101	392-172-360	AMD-P	99-17-101
392-140-967	NEW-E	99-12-087	392-172-174	AMD-P	99-17-101	392-172-362	AMD-P	99-17-101
392-140-967	NEW-P	99-15-048	392-172-176	AMD-P	99-17-101	392-172-364	AMD-P	99-17-101
392-169	PREP	99-09-008	392-172-178	REP-P	99-17-101	392-172-370	AMD-P	99-17-101
392-169-025	AMD-E	99-13-124	392-172-180	AMD-P	99-17-101	392-172-371	NEW-P	99-17-101
392-169-030	AMD-E	99-13-124	392-172-182	AMD-P	99-17-101	392-172-372	REP-P	99-17-101
392-169-055	AMD-E	99-13-124	392-172-184	AMD-P	99-17-101	392-172-373	NEW-P	99-17-101
392-169-057	AMD-E	99-13-124	392-172-185	NEW-P	99-17-101	392-172-374	REP-P	99-17-101
392-169-060	AMD-E	99-13-124	392-172-186	AMD-P	99-17-101	392-172-37500	NEW-P	99-17-101
392-172	PREP	99-06-049	392-172-188	AMD-P	99-17-101	392-172-37505	NEW-P	99-17-101
392-172-010	AMD-P	99-17-101	392-172-190	AMD-P	99-17-101	392-172-37510	NEW-P	99-17-101
392-172-020	AMD-P	99-17-101	392-172-200	AMD-P	99-17-101	392-172-376	REP-P	99-17-101
392-172-030	AMD-P	99-17-101	392-172-202	AMD-P	99-17-101	392-172-377	NEW-P	99-17-101
392-172-035	AMD-P	99-17-101	392-172-206	REP-P	99-17-101	392-172-378	REP-P	99-17-101
392-172-040	AMD-P	99-17-101	392-172-214	REP-P	99-17-101	392-172-379	NEW-P	99-17-101
392-172-045	AMD-P	99-17-101	392-172-216	REP-P	99-17-101	392-172-380	REP-P	99-17-101
392-172-055	AMD-P	99-17-101	392-172-219	NEW-P	99-17-101	392-172-381	NEW-P	99-17-101
392-172-060	REP-P	99-17-101	392-172-220	AMD-P	99-17-101	392-172-382	REP-P	99-17-101
392-172-062	REP-P	99-17-101	392-172-222	AMD-P	99-17-101	392-172-38300	NEW-P	99-17-101
392-172-065	AMD-P	99-17-101	392-172-224	AMD-P	99-17-101	392-172-38305	NEW-P	99-17-101
392-172-070	AMD-P	99-17-101	392-172-226	AMD-P	99-17-101	392-172-38310	NEW-P	99-17-101
392-172-073	NEW-P	99-17-101	392-172-228	REP-P	99-17-101	392-172-38400	NEW-P	99-17-101

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
392-172-38405	NEW-P	99-17-101	392-172-610	NEW-P	99-17-101	415-105-074	NEW	99-16-075
392-172-38410	NEW-P	99-17-101	392-172-615	NEW-P	99-17-101	415-105-080	AMD-P	99-13-166
392-172-38415	NEW-P	99-17-101	392-172-620	NEW-P	99-17-101	415-105-080	AMD	99-16-075
392-172-385	NEW-P	99-17-101	392-172-625	NEW-P	99-17-101	415-105-090	AMD-P	99-13-166
392-172-388	AMD-P	99-17-101	392-172-630	NEW-P	99-17-101	415-105-090	AMD	99-16-075
392-172-390	AMD-P	99-17-101	392-172-635	NEW-P	99-17-101	415-105-100	AMD-P	99-13-166
392-172-392	AMD-P	99-17-101	392-172-640	NEW-P	99-17-101	415-105-100	AMD	99-16-075
392-172-394	AMD-P	99-17-101	392-172-645	NEW-P	99-17-101	415-105-110	AMD-P	99-13-166
392-172-396	AMD-P	99-17-101	392-172-650	NEW-P	99-17-101	415-105-110	AMD	99-16-075
392-172-398	AMD-P	99-17-101	392-172-655	NEW-P	99-17-101	415-105-120	AMD-P	99-13-166
392-172-400	AMD-P	99-17-101	392-172-660	NEW-P	99-17-101	415-105-120	AMD	99-16-075
392-172-402	AMD-P	99-17-101	392-172-665	NEW-P	99-17-101	415-105-140	AMD-P	99-13-166
392-172-404	AMD-P	99-17-101	399-30-032	NEW-P	99-05-062	415-105-140	AMD	99-16-075
392-172-408	AMD-P	99-17-101	399-30-032	NEW	99-09-020	415-105-150	AMD-P	99-13-166
392-172-410	AMD-P	99-17-101	399-30-033	NEW-P	99-05-062	415-105-150	AMD	99-16-075
392-172-414	AMD-P	99-17-101	399-30-033	NEW	99-09-020	415-105-160	AMD-P	99-13-166
392-172-416	AMD-P	99-17-101	399-30-034	NEW-P	99-05-062	415-105-160	AMD	99-16-075
392-172-418	AMD-P	99-17-101	399-30-034	NEW	99-09-020	415-105-170	AMD-P	99-13-166
392-172-420	AMD-P	99-17-101	415-104-035	AMD-P	99-13-166	415-105-170	AMD	99-16-075
392-172-422	AMD-P	99-17-101	415-104-035	AMD	99-16-075	415-105-180	AMD-P	99-13-166
392-172-424	AMD-P	99-17-101	415-104-045	AMD-P	99-13-166	415-105-180	AMD	99-16-075
392-172-426	AMD-P	99-17-101	415-104-045	AMD	99-16-075	415-108-324	AMD-P	99-11-006
392-172-500	AMD-P	99-17-101	415-104-050	AMD-P	99-13-166	415-108-324	AMD	99-14-008
392-172-502	AMD-P	99-17-101	415-104-050	AMD	99-16-075	415-108-326	AMD-P	99-11-006
392-172-50300	NEW-P	99-17-101	415-104-060	AMD-P	99-13-166	415-108-326	AMD	99-14-008
392-172-50305	NEW-P	99-17-101	415-104-060	AMD	99-16-075	415-108-475	AMD-P	99-11-006
392-172-504	AMD-P	99-17-101	415-104-070	AMD-P	99-13-166	415-108-475	AMD	99-14-008
392-172-506	AMD-P	99-17-101	415-104-070	AMD	99-16-075	415-108-485	AMD-P	99-11-006
392-172-507	NEW-P	99-17-101	415-104-080	AMD-P	99-13-166	415-108-485	AMD	99-14-008
392-172-510	AMD-P	99-17-101	415-104-080	AMD	99-16-075	415-108-510	AMD-P	99-11-006
392-172-511	NEW-P	99-17-101	415-104-090	AMD-P	99-13-166	415-108-510	AMD	99-14-008
392-172-512	AMD-P	99-17-101	415-104-090	AMD	99-16-075	415-108-520	AMD-P	99-11-006
392-172-514	AMD-P	99-17-101	415-104-112	NEW-P	99-13-166	415-108-520	AMD	99-14-008
392-172-516	AMD-P	99-17-101	415-104-112	NEW	99-16-075	415-108-671	REP-XR	99-08-074
392-172-520	AMD-P	99-17-101	415-104-125	AMD-P	99-13-166	415-108-671	REP	99-12-041
392-172-526	AMD-P	99-17-101	415-104-125	AMD	99-16-075	415-112-100	AMD-P	99-11-006
392-172-550	AMD-P	99-17-101	415-104-135	AMD-P	99-13-166	415-112-100	AMD	99-14-008
392-172-552	AMD-P	99-17-101	415-104-135	AMD	99-16-075	415-112-270	AMD-P	99-11-006
392-172-553	NEW-P	99-17-101	415-104-145	AMD-P	99-13-166	415-112-270	AMD	99-14-008
392-172-554	REP-P	99-17-101	415-104-145	AMD	99-16-075	415-112-290	AMD-P	99-11-006
392-172-556	REP-P	99-17-101	415-104-165	AMD-P	99-13-166	415-112-290	AMD	99-14-008
392-172-558	REP-P	99-17-101	415-104-165	AMD	99-16-075	415-112-400	AMD-P	99-11-006
392-172-559	NEW-P	99-17-101	415-104-175	AMD-P	99-13-166	415-112-400	AMD	99-14-008
392-172-560	REP-P	99-17-101	415-104-175	AMD	99-16-075	415-112-41301	AMD-P	99-11-006
392-172-561	NEW-P	99-17-101	415-104-211	AMD-P	99-13-166	415-112-41301	AMD	99-14-008
392-172-562	REP-P	99-17-101	415-104-211	AMD	99-16-075	415-112-515	AMD-P	99-11-006
392-172-564	REP-P	99-17-101	415-104-215	AMD-P	99-13-166	415-112-515	AMD	99-14-008
392-172-566	REP-P	99-17-101	415-104-215	AMD	99-16-075	415-112-520	AMD-P	99-11-006
392-172-568	REP-P	99-17-101	415-104-299	AMD-P	99-13-166	415-112-520	AMD	99-14-008
392-172-570	REP-P	99-17-101	415-104-299	AMD	99-16-075	415-112-561	REP-XR	99-08-074
392-172-574	AMD-P	99-17-101	415-105-010	AMD-P	99-13-166	415-112-561	REP	99-12-041
392-172-576	NEW-P	99-17-101	415-105-010	AMD	99-16-075	415-112-600	AMD-P	99-11-006
392-172-57700	NEW-P	99-17-101	415-105-020	AMD-P	99-13-166	415-112-600	AMD	99-14-008
392-172-57800	NEW-P	99-17-101	415-105-020	AMD	99-16-075	415-112-700	AMD-P	99-11-006
392-172-57900	NEW-P	99-17-101	415-105-030	AMD-P	99-13-166	415-112-700	AMD	99-14-008
392-172-580	AMD-P	99-17-101	415-105-030	AMD	99-16-075	415-112-710	AMD-P	99-11-006
392-172-582	AMD-P	99-17-101	415-105-040	AMD-P	99-13-166	415-112-710	AMD	99-14-008
392-172-583	NEW-P	99-17-101	415-105-040	AMD	99-16-075	415-112-725	AMD-P	99-11-006
392-172-584	AMD-P	99-17-101	415-105-050	AMD-P	99-13-166	415-112-725	AMD	99-14-008
392-172-585	NEW-P	99-17-101	415-105-050	AMD	99-16-075	415-112-727	AMD-P	99-11-006
392-172-588	AMD-P	99-17-101	415-105-060	AMD-P	99-13-166	415-112-727	AMD	99-14-008
392-172-590	AMD-P	99-17-101	415-105-060	AMD	99-16-075	415-112-800	AMD-P	99-11-006
392-172-592	REP-P	99-17-101	415-105-070	AMD-P	99-13-166	415-112-800	AMD	99-14-008
392-172-594	REP-P	99-17-101	415-105-070	AMD	99-16-075	415-115-070	REP-XR	99-08-074
392-172-595	NEW-P	99-17-101	415-105-072	NEW-P	99-13-166	415-115-070	REP	99-12-041
392-172-600	NEW-P	99-17-101	415-105-072	NEW	99-16-075	419-14-135	NEW-P	99-07-131
392-172-605	NEW-P	99-17-101	415-105-074	NEW-P	99-13-166	419-14-135	NEW	99-10-024

TABLE

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
419- 14-140	NEW-P	99-07-131	434-260-230	REP-P	99-07-043	434-334-120	RECOD-P	99-05-034
419- 14-140	NEW	99-10-024	434-260-230	REP	99-12-004	434-334-120	RECOD	99-08-115
434- 55-060	AMD-XA	99-05-038	434-260-235	NEW-P	99-07-043	434-334-125	NEW-P	99-05-034
434- 55-060	AMD	99-12-008	434-260-235	NEW	99-12-004	434-334-125	NEW	99-08-115
434- 55-065	AMD-XA	99-05-038	434-260-240	AMD-P	99-07-043	434-334-130	NEW-P	99-05-034
434- 55-065	AMD	99-12-008	434-260-240	AMD	99-12-004	434-334-130	NEW	99-08-115
434-130-090	AMD-XA	99-05-039	434-260-250	REP-P	99-07-043	434-334-135	NEW-P	99-05-034
434-130-090	AMD	99-12-007	434-260-250	REP	99-12-004	434-334-135	NEW	99-08-115
434-166-210	AMD-XA	99-12-009	434-260-260	AMD-P	99-07-043	434-334-140	NEW-P	99-05-034
434-166-210	AMD	99-16-066	434-260-260	AMD	99-12-004	434-334-140	NEW	99-08-115
434-166-290	AMD-XA	99-12-009	434-260-270	REP-P	99-07-043	434-334-145	NEW-P	99-05-034
434-166-290	AMD	99-16-066	434-260-270	REP	99-12-004	434-334-145	NEW	99-08-115
434-166-310	AMD-XA	99-12-009	434-260-280	REP-P	99-07-043	434-334-150	NEW-P	99-05-034
434-166-310	AMD	99-16-066	434-260-280	REP	99-12-004	434-334-150	NEW	99-08-115
434-180-215	AMD	99-02-047	434-260-290	REP-P	99-07-043	434-334-155	NEW-P	99-05-034
434-180-265	AMD	99-02-048	434-260-290	REP	99-12-004	434-334-155	NEW	99-08-115
434-180-360	AMD	99-02-047	434-260-300	AMD-P	99-07-043	434-334-160	NEW-P	99-05-034
434-240-205	AMD-P	99-05-054	434-260-300	AMD	99-12-004	434-334-160	NEW	99-08-115
434-240-205	AMD	99-08-089	434-260-305	NEW-P	99-07-043	434-334-165	NEW-P	99-05-034
434-260	AMD-P	99-07-043	434-260-305	NEW	99-12-004	434-334-165	NEW	99-08-115
434-260	AMD	99-12-004	434-260-310	AMD-P	99-07-043	434-334-170	NEW-P	99-05-034
434-260-010	AMD-P	99-07-043	434-260-310	AMD	99-12-004	434-334-170	NEW	99-08-115
434-260-010	AMD	99-12-004	434-260-320	AMD-P	99-07-043	434-334-175	NEW-P	99-05-034
434-260-020	AMD-P	99-07-043	434-260-320	AMD	99-12-004	434-334-175	NEW	99-08-115
434-260-020	AMD	99-12-004	434-260-330	AMD-P	99-07-043	434-663	PREP	99-16-117
434-260-030	AMD-P	99-07-043	434-260-330	AMD	99-12-004	440- 22	PREP	99-10-010
434-260-030	AMD	99-12-004	434-260-340	AMD-P	99-07-043	440- 25	PREP	99-06-082
434-260-040	AMD-P	99-07-043	434-260-340	AMD	99-12-004	440- 25-005	REP-P	99-16-098
434-260-040	AMD	99-12-004	434-260-350	AMD-P	99-07-043	440- 25-010	REP-P	99-16-098
434-260-050	AMD-P	99-07-043	434-260-350	AMD	99-12-004	440- 25-020	REP-P	99-16-098
434-260-050	AMD	99-12-004	434-261-005	AMD-P	99-05-054	440- 25-030	REP-P	99-16-098
434-260-060	AMD-P	99-07-043	434-261-005	AMD	99-08-089	440- 25-040	REP-P	99-16-098
434-260-060	AMD	99-12-004	434-261-080	AMD-P	99-05-054	440- 25-050	REP-P	99-16-098
434-260-070	REP-P	99-07-043	434-261-080	AMD	99-08-089	440- 25-060	REP-P	99-16-098
434-260-070	REP	99-12-004	434-324-010	AMD-E	99-17-008	440- 25-070	REP-P	99-16-098
434-260-080	AMD-P	99-07-043	434-324-105	REP-P	99-05-054	440- 25-080	REP-P	99-16-098
434-260-080	AMD	99-12-004	434-324-105	REP	99-08-089	440- 25-090	REP-P	99-16-098
434-260-110	AMD-P	99-07-043	434-334-055	AMD-P	99-05-034	440- 25-100	REP-P	99-16-098
434-260-110	AMD	99-12-004	434-334-055	AMD	99-08-115	440- 25-110	REP-P	99-16-098
434-260-120	AMD-P	99-07-043	434-334-063	NEW-P	99-05-034	440- 25-120	REP-P	99-16-098
434-260-120	AMD	99-12-004	434-334-063	NEW	99-08-115	440- 44-025	PREP	99-17-055
434-260-130	AMD-P	99-07-043	434-334-065	AMD-P	99-05-034	440- 44-026	PREP	99-17-055
434-260-130	AMD	99-12-004	434-334-065	AMD	99-08-115	446- 16-070	AMD-P	99-03-080
434-260-140	AMD-P	99-07-043	434-334-070	AMD-P	99-05-034	446- 16-070	AMD	99-07-051
434-260-140	AMD	99-12-004	434-334-070	AMD	99-08-115	446- 16-080	AMD-P	99-03-080
434-260-145	NEW-P	99-07-043	434-334-075	AMD-P	99-05-034	446- 16-080	AMD	99-07-051
434-260-145	NEW	99-12-004	434-334-075	AMD	99-08-115	446- 16-100	AMD-P	99-03-080
434-260-150	AMD-P	99-07-043	434-334-080	DECOD-P	99-05-034	446- 16-100	AMD	99-07-051
434-260-150	AMD	99-12-004	434-334-080	AMD-P	99-05-034	446- 16-110	AMD-P	99-03-080
434-260-160	AMD-P	99-07-043	434-334-080	DECOD	99-08-115	446- 16-110	AMD	99-07-051
434-260-160	AMD	99-12-004	434-334-080	AMD	99-08-115	446- 20-600	AMD-P	99-03-081
434-260-170	AMD-P	99-07-043	434-334-082	NEW-P	99-05-034	446- 20-600	AMD	99-07-050
434-260-170	AMD	99-12-004	434-334-082	NEW	99-08-115	446- 30-010	PREP	99-17-087
434-260-180	REP-P	99-07-043	434-334-085	AMD-P	99-05-034	448- 13-030	AMD	99-06-048
434-260-180	REP	99-12-004	434-334-085	AMD	99-08-115	448- 13-040	AMD	99-06-048
434-260-190	AMD-P	99-07-043	434-334-090	AMD-P	99-05-034	448- 13-050	AMD	99-06-048
434-260-190	AMD	99-12-004	434-334-090	AMD	99-08-115	448- 13-060	AMD-E	99-10-018
434-260-200	AMD-P	99-07-043	434-334-095	AMD-P	99-05-034	448- 13-060	AMD-XA	99-10-019
434-260-200	AMD	99-12-004	434-334-095	AMD	99-08-115	448- 13-060	AMD-S	99-17-063
434-260-210	REP-P	99-07-043	434-334-100	AMD-P	99-05-034	448- 13-060	AMD-E	99-17-064
434-260-210	REP	99-12-004	434-334-100	AMD	99-08-115	448- 13-065	AMD	99-06-048
434-260-215	REP-P	99-07-043	434-334-105	AMD-P	99-05-034	448- 13-070	AMD	99-06-048
434-260-215	REP	99-12-004	434-334-105	AMD	99-08-115	448- 13-080	AMD	99-06-048
434-260-220	AMD-P	99-07-043	434-334-110	AMD-P	99-05-034	448- 13-140	AMD	99-06-048
434-260-220	AMD	99-12-004	434-334-110	AMD	99-08-115	448- 13-170	AMD	99-06-048
434-260-225	NEW-P	99-07-043	434-334-115	REP-P	99-05-034	448- 13-180	AMD	99-06-048
434-260-225	NEW	99-12-004	434-334-115	REP	99-08-115	448- 13-210	AMD	99-06-048

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
448-15-010	NEW	99-06-047	458-12-336	PREP	99-05-069	458-57-005	NEW-P	99-11-104
448-15-020	NEW	99-06-047	458-12-337	PREP	99-05-069	458-57-005	NEW	99-15-095
448-15-030	NEW	99-06-047	458-12-338	PREP	99-05-069	458-57-015	NEW-P	99-11-104
448-15-040	NEW	99-06-047	458-12-339	PREP	99-05-069	458-57-015	NEW	99-15-095
448-15-050	NEW	99-06-047	458-16-280	PREP	99-09-085	458-57-025	NEW-P	99-11-104
448-15-060	NEW	99-06-047	458-16-280	AMD-P	99-13-017	458-57-025	NEW	99-15-095
456-12-010	REP-P	99-08-091	458-16-282	PREP	99-09-085	458-57-035	NEW-P	99-11-104
456-12-010	REP	99-13-098	458-16-282	AMD-P	99-13-017	458-57-035	NEW	99-15-095
456-12-015	NEW-P	99-08-091	458-16-320	AMD-XA	99-07-090	458-57-045	NEW-P	99-11-104
456-12-015	NEW	99-13-098	458-16-320	AMD	99-13-018	458-57-045	NEW	99-15-095
456-12-020	REP-P	99-08-091	458-16A-010	AMD	99-04-016	458-57-510	REP-P	99-11-104
456-12-020	REP	99-13-098	458-18-010	PREP	99-11-105	458-57-510	REP	99-15-095
456-12-025	NEW-P	99-08-091	458-20-119	AMD-XA	99-06-027	458-57-520	REP-P	99-11-104
456-12-025	NEW	99-13-098	458-20-119	AMD	99-11-107	458-57-520	REP	99-15-095
456-12-030	REP-P	99-08-091	458-20-131	AMD-P	99-05-017	458-57-530	REP-P	99-11-104
456-12-030	REP	99-13-098	458-20-131	AMD	99-08-090	458-57-530	REP	99-15-095
456-12-035	NEW-P	99-08-091	458-20-135	AMD-E	99-12-077	458-57-540	REP-P	99-11-104
456-12-035	NEW	99-13-098	458-20-135	PREP	99-12-078	458-57-540	REP	99-15-095
456-12-040	REP-P	99-08-091	458-20-136	AMD-E	99-12-077	458-57-550	REP-P	99-11-104
456-12-040	REP	99-13-098	458-20-136	PREP	99-12-078	458-57-550	REP	99-15-095
456-12-045	NEW-P	99-08-091	458-20-13601	NEW-E	99-12-077	458-57-560	REP-P	99-11-104
456-12-045	NEW	99-13-098	458-20-13601	PREP	99-12-078	458-57-560	REP	99-15-095
456-12-050	REP-P	99-08-091	458-20-157	REP-XR	99-04-019	458-57-570	REP-P	99-11-104
456-12-050	REP	99-13-098	458-20-157	REP	99-08-005	458-57-570	REP	99-15-095
456-12-055	NEW-P	99-08-091	458-20-165	AMD-XA	99-08-032	458-57-575	NEW	99-03-010
456-12-055	NEW	99-13-098	458-20-165	AMD	99-13-052	458-57-575	REP-P	99-11-104
456-12-060	REP-P	99-08-091	458-20-167	AMD	99-03-005	458-57-575	REP	99-15-095
456-12-060	REP	99-13-098	458-20-192	PREP	99-09-082	458-57-580	REP-P	99-11-104
456-12-065	NEW-P	99-08-091	458-20-195	AMD-XA	99-08-022	458-57-580	REP	99-15-095
456-12-065	NEW	99-13-098	458-20-195	AMD	99-13-053	458-57-590	REP-P	99-11-104
456-12-070	REP-P	99-08-091	458-20-206	REP-XR	99-04-019	458-57-590	REP	99-15-095
456-12-070	REP	99-13-098	458-20-206	REP	99-08-005	458-57-600	REP-P	99-11-104
456-12-075	NEW-P	99-08-091	458-20-207	AMD-XA	99-08-023	458-57-600	REP	99-15-095
456-12-075	NEW	99-13-098	458-20-207	AMD	99-13-092	458-57-610	REP-P	99-11-104
456-12-080	REP-P	99-08-091	458-20-216	AMD-P	99-04-014	458-57-610	REP	99-15-095
456-12-080	REP	99-13-098	458-20-216	AMD	99-08-034	458-57-620	REP-P	99-11-104
456-12-085	NEW-P	99-08-091	458-20-222	AMD-P	99-04-015	458-57-620	REP	99-15-095
456-12-085	NEW	99-13-098	458-20-222	AMD	99-08-033	458-57-630	REP-P	99-11-104
456-12-090	REP-P	99-08-091	458-20-225	REP-XR	99-04-019	458-57-630	REP	99-15-095
456-12-090	REP	99-13-098	458-20-225	REP	99-08-005	458-57-640	REP-P	99-11-104
456-12-095	NEW-P	99-08-091	458-20-226	AMD-XA	99-04-021	458-57-640	REP	99-15-095
456-12-095	NEW	99-13-098	458-20-226	AMD	99-09-013	458-57-650	REP-P	99-11-104
456-12-100	REP-P	99-08-091	458-20-228	AMD-P	99-10-034	458-57-650	REP	99-15-095
456-12-100	REP	99-13-098	458-20-231	AMD	99-02-055	458-57-660	REP-P	99-11-104
456-12-105	NEW-P	99-08-091	458-20-238	AMD-XA	99-04-020	458-57-660	REP	99-15-095
456-12-105	NEW	99-13-098	458-20-238	AMD-W	99-17-083	458-61-090	AMD-P	99-10-033
456-12-110	REP-P	99-08-091	458-20-246	PREP	99-11-041	458-61-090	AMD	99-14-053
456-12-110	REP	99-13-098	458-20-246	AMD-P	99-17-029	458-65-010	REP-XR	99-10-032
456-12-115	NEW-P	99-08-091	458-20-261	NEW-P	99-04-022	458-65-010	REP	99-14-056
456-12-115	NEW	99-13-098	458-20-261	NEW	99-08-035	458-65-020	REP-XR	99-04-018
456-12-120	REP-P	99-08-091	458-20-263	AMD-XA	99-06-028	458-65-020	REP	99-08-007
456-12-120	REP	99-13-098	458-20-263	AMD	99-11-106	458-65-030	REP-XR	99-04-018
456-12-130	REP-P	99-08-091	458-29A-100	NEW-P	99-17-088	458-65-030	REP	99-08-007
456-12-130	REP	99-13-098	458-29A-200	NEW-P	99-17-088	458-65-040	REP-XR	99-04-018
456-12-140	REP-P	99-08-091	458-29A-400	NEW-P	99-17-088	458-65-040	REP	99-08-007
456-12-140	REP	99-13-098	458-29A-500	NEW-P	99-17-088	460-21B-060	AMD-XA	99-07-012
458-08	PREP	99-05-069	458-29A-600	NEW-P	99-17-088	460-21B-060	AMD	99-12-043
458-12-040	PREP	99-05-069	458-30-360	REP-XR	99-13-016	460-21B-060	AMD-W	99-14-077
458-12-300	PREP	99-05-069	458-30-360	REP	99-17-042	460-22B-090	AMD-XA	99-07-012
458-12-301	PREP	99-05-069	458-40-660	PREP	99-06-036	460-22B-090	AMD	99-12-043
458-12-305	PREP	99-05-069	458-40-660	AMD-P	99-10-039	460-22B-090	AMD-W	99-14-077
458-12-315	REP-XR	99-04-017	458-40-660	AMD	99-14-055	460-24A	PREP	99-13-196
458-12-320	REP-XR	99-04-017	458-50-010	REP-XR	99-04-031	460-24A-110	NEW	99-03-050
458-12-326	PREP	99-05-069	458-50-010	REP	99-08-006	460-24A-145	NEW	99-03-052
458-12-327	PREP	99-05-069	458-50-050	REP-XR	99-04-031	460-24A-220	AMD	99-03-051
458-12-330	PREP	99-05-069	458-50-050	REP	99-08-006	460-28A-015	AMD	99-03-053
458-12-335	PREP	99-05-069	458-57	PREP	99-07-133	468-06-040	AMD-XA	99-02-065

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
468-06-040	AMD	99-07-013	474-10-020	NEW	99-03-004	480-09-200	AMD	99-05-031
468-12	PREP	99-04-042	474-10-030	NEW	99-03-004	480-09-210	AMD	99-05-031
468-34-010	AMD-W	99-08-082	474-10-040	NEW	99-03-004	480-09-220	AMD	99-05-031
468-34-020	AMD-W	99-08-082	474-10-050	NEW	99-03-004	480-09-230	AMD	99-05-031
468-34-100	AMD-W	99-08-082	474-10-060	NEW	99-03-004	480-09-337	NEW-S	99-12-112
468-34-120	AMD-W	99-08-082	474-10-070	NEW	99-03-004	480-09-340	AMD	99-05-031
468-34-150	AMD-W	99-08-082	474-10-080	NEW	99-03-004	480-09-390	AMD	99-05-031
468-34-330	AMD-W	99-08-082	474-10-090	NEW	99-03-004	480-09-400	AMD	99-05-031
468-38-110	AMD-P	99-05-006	474-10-100	NEW	99-03-004	480-09-410	AMD	99-05-031
468-38-110	AMD	99-08-025	478-140	AMD-P	99-08-056	480-09-420	AMD	99-05-031
468-38-150	REP-XR	99-04-058	478-140	AMD	99-12-110	480-09-425	AMD	99-05-031
468-38-150	REP	99-07-098	478-140-010	AMD-P	99-08-056	480-09-426	AMD	99-05-031
468-38-170	REP-XR	99-04-058	478-140-010	AMD	99-12-110	480-09-430	AMD	99-05-031
468-38-170	REP	99-07-098	478-140-015	AMD-P	99-08-056	480-09-440	AMD	99-05-031
468-38-210	REP-XR	99-04-058	478-140-015	AMD	99-12-110	480-09-460	AMD	99-05-031
468-38-210	REP	99-07-098	478-140-018	AMD-P	99-08-056	480-09-465	AMD	99-05-031
468-38-290	AMD-E	99-10-004	478-140-018	AMD	99-12-110	480-09-466	AMD	99-05-031
468-38-290	PREP	99-10-020	478-140-019	NEW-P	99-08-056	480-09-467	AMD	99-05-031
468-38-290	AMD-P	99-14-047	478-140-019	NEW	99-12-110	480-09-470	AMD	99-05-031
468-51-010	AMD	99-06-034	478-140-021	AMD-P	99-08-056	480-09-475	AMD	99-05-031
468-51-020	AMD	99-06-034	478-140-021	AMD	99-12-110	480-09-500	AMD	99-05-031
468-51-030	AMD	99-06-034	478-140-024	AMD-P	99-08-056	480-09-510	AMD	99-05-031
468-51-040	AMD	99-06-034	478-140-024	AMD	99-12-110	480-09-600	AMD	99-05-031
468-51-060	AMD	99-06-034	478-140-050	AMD-P	99-08-056	480-09-610	AMD	99-05-031
468-51-070	AMD	99-06-034	478-140-050	AMD	99-12-110	480-09-620	AMD	99-05-031
468-51-080	AMD	99-06-034	478-140-060	REP-P	99-08-056	480-09-700	AMD	99-05-031
468-51-090	AMD	99-06-034	478-140-060	REP	99-12-110	480-09-705	AMD	99-05-031
468-51-100	AMD	99-06-034	478-140-070	AMD-P	99-08-056	480-09-710	AMD	99-05-031
468-51-105	NEW	99-06-034	478-140-070	AMD	99-12-110	480-09-720	AMD	99-05-031
468-51-110	AMD	99-06-034	478-140-080	NEW-P	99-08-056	480-09-730	AMD	99-05-031
468-51-120	AMD	99-06-034	478-140-080	NEW	99-12-110	480-09-735	AMD	99-05-031
468-51-130	AMD	99-06-034	478-210-010	REP	99-06-033	480-09-736	AMD	99-05-031
468-51-140	AMD	99-06-034	478-210-020	REP	99-06-033	480-09-740	AMD	99-05-031
468-51-150	AMD	99-06-034	479-16-020	AMD-P	99-03-089	480-09-745	AMD	99-05-031
468-52-020	AMD	99-06-035	479-16-020	AMD	99-08-021	480-09-750	AMD	99-05-031
468-52-030	AMD	99-06-035	479-16-040	AMD-P	99-03-089	480-09-751	AMD	99-05-031
468-52-040	AMD	99-06-035	479-16-040	AMD	99-08-021	480-09-760	AMD	99-05-031
468-52-050	AMD	99-06-035	479-16-098	AMD-P	99-03-089	480-09-770	AMD	99-05-031
468-52-060	AMD	99-06-035	479-16-098	AMD	99-08-021	480-09-780	AMD	99-05-031
468-52-070	AMD	99-06-035	479-20-007	AMD-P	99-03-089	480-09-800	AMD	99-05-031
468-54	PREP	99-10-029	479-20-007	AMD	99-08-021	480-09-810	AMD	99-05-031
468-58	PREP	99-10-030	479-20-020	AMD-P	99-03-089	480-09-815	AMD	99-05-031
468-66	PREP	99-17-079	479-20-020	AMD	99-08-021	480-09-820	AMD	99-05-031
468-300-010	AMD-P	99-05-035	479-20-025	AMD-P	99-03-089	480-09-830	REP	99-05-031
468-300-010	AMD	99-08-066	479-20-025	AMD	99-08-021	480-12-100	REP-W	99-08-085
468-300-020	AMD-P	99-05-035	479-20-037	AMD-P	99-03-089	480-12-370	RE-AD	99-08-026
468-300-020	AMD	99-08-066	479-20-037	AMD	99-08-021	480-12-375	REP	99-08-026
468-300-040	AMD-P	99-05-035	479-510-410	AMD-P	99-03-088	480-12-375	REP-W	99-08-085
468-300-040	AMD	99-08-066	479-510-410	AMD	99-08-020	480-14-060	AMD-XA	99-14-079
468-300-220	AMD-P	99-05-035	479-510-420	AMD-P	99-03-088	480-15-040	AMD-XA	99-14-079
468-300-220	AMD	99-08-066	479-510-420	AMD	99-08-020	480-30-015	AMD-XA	99-14-079
468-300-700	AMD	99-07-059	479-510-450	NEW-P	99-03-088	480-31-100	AMD-XA	99-14-079
468-310-010	AMD	99-03-025	479-510-450	NEW	99-08-020	480-31-120	AMD-XA	99-14-079
468-310-020	AMD	99-03-025	479-510-460	NEW-P	99-03-088	480-31-130	AMD-XA	99-14-079
468-310-050	AMD	99-03-025	479-510-460	NEW	99-08-020	480-31-140	AMD-XA	99-14-079
468-310-060	AMD	99-03-025	480-09-005	NEW	99-05-031	480-40-015	AMD-XA	99-14-079
468-310-100	AMD	99-03-025	480-09-010	AMD	99-05-031	480-60-010	AMD-P	99-15-083
468-500-001	AMD-XA	99-06-004	480-09-012	AMD	99-05-031	480-60-012	NEW-P	99-15-083
468-500-001	AMD	99-11-007	480-09-100	AMD	99-05-031	480-60-014	NEW-P	99-15-083
468-550	PREP	99-11-026	480-09-101	NEW	99-05-031	480-60-020	AMD-P	99-15-083
468-550-030	AMD-P	99-15-011	480-09-115	AMD	99-05-031	480-60-030	AMD-P	99-15-083
468-550-040	AMD-P	99-15-011	480-09-120	AMD	99-05-031	480-60-035	NEW-P	99-15-083
468-550-060	AMD-P	99-15-011	480-09-125	AMD	99-05-031	480-60-040	AMD-P	99-15-083
468-550-070	AMD-P	99-15-011	480-09-130	AMD	99-05-031	480-60-050	AMD-P	99-15-083
468-550-080	NEW-P	99-15-011	480-09-135	AMD	99-05-031	480-60-060	AMD-P	99-15-083
474-02-010	PREP	99-16-021	480-09-140	AMD	99-05-031	480-60-070	REP-P	99-15-083
474-10-010	NEW	99-03-004	480-09-150	AMD	99-05-031	480-60-080	AMD-P	99-15-083

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-60-090	AMD-P	99-15-083	480-110-021	REP-S	99-12-112	480-110-205	NEW-S	99-12-112
480-60-99002	REP-P	99-15-083	480-110-023	REP-W	99-07-053	480-110-215	NEW-S	99-12-112
480-60-99003	REP-P	99-15-083	480-110-023	REP-S	99-12-112	480-110-225	NEW-S	99-12-112
480-62	PREP	99-08-053	480-110-026	REP-W	99-07-053	480-110-235	NEW-S	99-12-112
480-62-090	AMD-XA	99-14-079	480-110-026	REP-S	99-12-112	480-110-245	NEW-S	99-12-112
480-66-010	REP-P	99-15-083	480-110-028	REP-W	99-07-053	480-110-255	NEW-S	99-12-112
480-66-020	REP-P	99-15-083	480-110-028	REP-S	99-12-112	480-110-265	NEW-S	99-12-112
480-66-030	REP-P	99-15-083	480-110-031	REP-W	99-07-053	480-110-275	NEW-S	99-12-112
480-66-040	REP-P	99-15-083	480-110-031	REP-S	99-12-112	480-110-285	NEW-S	99-12-112
480-66-050	REP-P	99-15-083	480-110-032	REP-W	99-07-053	480-110-295	NEW-S	99-12-112
480-66-060	REP-P	99-15-083	480-110-032	REP-S	99-12-112	480-110-305	NEW-S	99-12-112
480-66-070	REP-P	99-15-083	480-110-036	REP-W	99-07-053	480-110-315	NEW-S	99-12-112
480-66-100	NEW-P	99-15-083	480-110-036	REP-S	99-12-112	480-110-325	NEW-S	99-12-112
480-66-110	NEW-P	99-15-083	480-110-041	REP-W	99-07-053	480-110-335	NEW-S	99-12-112
480-66-120	NEW-P	99-15-083	480-110-041	REP-S	99-12-112	480-110-345	NEW-S	99-12-112
480-66-140	NEW-P	99-15-083	480-110-046	REP-W	99-07-053	480-110-355	NEW-S	99-12-112
480-66-150	NEW-P	99-15-083	480-110-046	REP-S	99-12-112	480-110-365	NEW-S	99-12-112
480-66-160	NEW-P	99-15-083	480-110-051	REP-W	99-07-053	480-110-375	NEW-S	99-12-112
480-66-170	NEW-P	99-15-083	480-110-051	REP-S	99-12-112	480-110-385	NEW-S	99-12-112
480-66-200	NEW-P	99-15-083	480-110-056	REP-W	99-07-053	480-110-395	NEW-S	99-12-112
480-66-210	NEW-P	99-15-083	480-110-056	REP-S	99-12-112	480-110-405	NEW-S	99-12-112
480-66-220	NEW-P	99-15-083	480-110-061	REP-W	99-07-053	480-110-415	NEW-S	99-12-112
480-66-230	NEW-P	99-15-083	480-110-061	REP-S	99-12-112	480-110-425	NEW-S	99-12-112
480-66-300	NEW-P	99-15-083	480-110-066	REP-W	99-07-053	480-110-435	NEW-S	99-12-112
480-66-310	NEW-P	99-15-083	480-110-066	REP-S	99-12-112	480-110-445	NEW-S	99-12-112
480-66-320	NEW-P	99-15-083	480-110-071	REP-W	99-07-053	480-110-455	NEW-S	99-12-112
480-66-330	NEW-P	99-15-083	480-110-071	REP-S	99-12-112	480-110-465	NEW-S	99-12-112
480-66-400	NEW-P	99-15-083	480-110-076	REP-W	99-07-053	480-110-475	NEW-S	99-12-112
480-66-410	NEW-P	99-15-083	480-110-076	REP-S	99-12-112	480-110-485	NEW-S	99-12-112
480-66-420	NEW-P	99-15-083	480-110-081	REP-W	99-07-053	480-110-495	NEW-S	99-12-112
480-66-430	NEW-P	99-15-083	480-110-081	REP-S	99-12-112	480-110-500	NEW-W	99-07-053
480-66-440	NEW-P	99-15-083	480-110-086	REP-W	99-07-053	480-110-510	NEW-W	99-07-053
480-66-450	NEW-P	99-15-083	480-110-086	REP-S	99-12-112	480-110-520	NEW-W	99-07-053
480-66-460	NEW-P	99-15-083	480-110-091	REP-W	99-07-053	480-110-530	NEW-W	99-07-053
480-66-470	NEW-P	99-15-083	480-110-091	REP-S	99-12-112	480-110-540	NEW-W	99-07-053
480-66-480	NEW-P	99-15-083	480-110-096	REP-W	99-07-053	480-110-550	NEW-W	99-07-053
480-66-490	NEW-P	99-15-083	480-110-096	REP-S	99-12-112	480-110-560	NEW-W	99-07-053
480-66-500	NEW-P	99-15-083	480-110-101	REP-W	99-07-053	480-110-570	NEW-W	99-07-053
480-66-510	NEW-P	99-15-083	480-110-101	REP-S	99-12-112	480-110-580	NEW-W	99-07-053
480-66-520	NEW-P	99-15-083	480-110-111	REP-W	99-07-053	480-110-590	NEW-W	99-07-053
480-66-600	NEW-P	99-15-083	480-110-111	REP-S	99-12-112	480-110-600	NEW-W	99-07-053
480-66-620	NEW-P	99-15-083	480-110-116	REP-W	99-07-053	480-110-610	NEW-W	99-07-053
480-70	PREP	99-08-012	480-110-116	REP-S	99-12-112	480-110-620	NEW-W	99-07-053
480-70-055	AMD-XA	99-14-079	480-110-121	REP-W	99-07-053	480-110-630	NEW-W	99-07-053
480-75-005	AMD-XA	99-14-079	480-110-121	REP-S	99-12-112	480-110-640	NEW-W	99-07-053
480-90	PREP	99-08-052	480-110-126	REP-W	99-07-053	480-110-650	NEW-W	99-07-053
480-92-011	AMD	99-05-016	480-110-126	REP-S	99-12-112	480-110-660	NEW-W	99-07-053
480-92-016	NEW	99-05-016	480-110-131	REP-W	99-07-053	480-110-670	NEW-W	99-07-053
480-92-021	AMD	99-05-016	480-110-131	REP-S	99-12-112	480-110-680	NEW-W	99-07-053
480-92-031	AMD	99-05-016	480-110-136	REP-W	99-07-053	480-110-690	NEW-W	99-07-053
480-92-041	NEW	99-05-016	480-110-136	REP-S	99-12-112	480-110-700	NEW-W	99-07-053
480-92-050	AMD	99-05-016	480-110-141	REP-W	99-07-053	480-110-710	NEW-W	99-07-053
480-92-060	AMD	99-05-016	480-110-141	REP-S	99-12-112	480-110-720	NEW-W	99-07-053
480-92-070	AMD	99-05-016	480-110-146	REP-W	99-07-053	480-110-730	NEW-W	99-07-053
480-92-080	AMD	99-05-016	480-110-146	REP-S	99-12-112	480-110-740	NEW-W	99-07-053
480-92-090	AMD	99-05-016	480-110-151	REP-W	99-07-053	480-110-750	NEW-W	99-07-053
480-92-100	AMD	99-05-016	480-110-151	REP-S	99-12-112	480-110-760	NEW-W	99-07-053
480-92-110	AMD	99-05-016	480-110-156	REP-W	99-07-053	480-110-770	NEW-W	99-07-053
480-93-010	AMD-XA	99-14-079	480-110-156	REP-S	99-12-112	480-110-780	NEW-W	99-07-053
480-100	PREP	99-08-105	480-110-161	REP-W	99-07-053	480-110-790	NEW-W	99-07-053
480-110-011	REP-W	99-07-053	480-110-161	REP-S	99-12-112	480-120	PREP	99-09-027
480-110-011	REP-S	99-12-112	480-110-166	REP-W	99-07-053	480-120-052	NEW	99-10-013
480-110-016	REP-W	99-07-053	480-110-166	REP-S	99-12-112	480-120-058	NEW	99-10-013
480-110-016	REP-S	99-12-112	480-110-171	REP-W	99-07-053	480-120-139	AMD-P	99-07-107
480-110-018	REP-W	99-07-053	480-110-171	REP-S	99-12-112	480-120-139	AMD	99-11-070
480-110-018	REP-S	99-12-112	480-110-176	REP-W	99-07-053	480-120-144	NEW	99-05-015
480-110-021	REP-W	99-07-053	480-110-176	REP-S	99-12-112	480-120-151	NEW	99-05-015

**Table of WAC Sections Affected**

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-120-152	NEW	99-05-015	480-123-420	NEW-W	99-13-095	480-143-180	NEW-P	99-03-074
480-120-153	NEW	99-05-015	480-123-430	NEW-W	99-13-095	480-143-180	NEW	99-08-055
480-120-154	NEW	99-05-015	480-123-440	NEW-W	99-13-095	480-143-190	NEW-P	99-03-074
480-121	AMD-P	99-07-106	480-123-450	NEW-W	99-13-095	480-143-190	NEW	99-08-055
480-121	AMD	99-13-097	480-123-460	NEW-W	99-13-095	480-143-200	NEW-P	99-03-074
480-121-010	AMD-P	99-07-106	480-123-470	NEW-W	99-13-095	480-143-200	NEW	99-08-055
480-121-010	AMD	99-13-097	480-123-480	NEW-W	99-13-095	480-143-210	NEW-P	99-03-074
480-121-015	NEW	99-13-097	480-123-490	NEW-W	99-13-095	480-143-210	NEW	99-08-055
480-121-020	AMD-P	99-07-106	480-123-500	NEW-W	99-13-095	480-143-990	REP-P	99-03-074
480-121-020	AMD	99-13-097	480-123-510	NEW-W	99-13-095	480-143-990	REP	99-08-055
480-121-023	NEW	99-13-097	480-123-520	NEW-W	99-13-095	480-146-010	REP-P	99-03-073
480-121-026	NEW	99-13-097	480-123-530	NEW-W	99-13-095	480-146-010	REP	99-08-054
480-121-030	AMD-P	99-07-106	480-123-540	NEW-W	99-13-095	480-146-020	REP-P	99-03-073
480-121-030	AMD	99-13-097	480-123-550	NEW-W	99-13-095	480-146-020	REP	99-08-054
480-121-040	AMD-P	99-07-106	480-123-560	NEW-W	99-13-095	480-146-030	REP-P	99-03-073
480-121-040	AMD	99-13-097	480-123-570	NEW-W	99-13-095	480-146-030	REP	99-08-054
480-121-050	REP-P	99-07-106	480-140	PREP	99-09-028	480-146-040	REP-P	99-03-073
480-121-050	AMD	99-13-097	480-140-010	AMD-P	99-17-044	480-146-040	REP	99-08-054
480-121-060	NEW-P	99-07-106	480-140-015	NEW-P	99-17-044	480-146-050	REP-P	99-03-073
480-121-060	NEW	99-13-097	480-140-020	AMD-P	99-17-044	480-146-050	REP	99-08-054
480-121-070	NEW-P	99-07-106	480-140-030	AMD-P	99-17-044	480-146-060	REP-P	99-03-073
480-121-070	NEW	99-13-097	480-140-040	AMD-P	99-17-044	480-146-060	REP	99-08-054
480-121-080	NEW-P	99-07-106	480-140-050	REP-P	99-17-044	480-146-070	REP-P	99-03-073
480-121-090	NEW-P	99-07-106	480-140-060	REP-P	99-17-044	480-146-070	REP	99-08-054
480-121-100	NEW-P	99-07-106	480-140-070	REP-P	99-17-044	480-146-080	REP-P	99-03-073
480-123-015	NEW-W	99-13-095	480-140-080	AMD-P	99-17-044	480-146-080	REP	99-08-054
480-123-020	NEW-W	99-13-095	480-140-090	REP-P	99-17-044	480-146-090	REP-P	99-03-073
480-123-030	NEW-W	99-13-095	480-140-100	REP-P	99-17-044	480-146-090	REP	99-08-054
480-123-040	NEW-W	99-13-095	480-140-110	REP-P	99-17-044	480-146-091	REP-P	99-03-073
480-123-050	NEW-W	99-13-095	480-140-120	REP-P	99-17-044	480-146-091	REP	99-08-054
480-123-060	NEW-W	99-13-095	480-140-130	REP-P	99-17-044	480-146-095	REP-P	99-03-073
480-123-070	NEW-W	99-13-095	480-140-140	REP-P	99-17-044	480-146-095	REP	99-08-054
480-123-080	NEW-W	99-13-095	480-140-150	REP-P	99-17-044	480-146-200	REP-P	99-03-073
480-123-085	NEW-W	99-13-095	480-140-160	REP-P	99-17-044	480-146-200	REP	99-08-054
480-123-090	NEW-W	99-13-095	480-140-170	REP-P	99-17-044	480-146-210	REP-P	99-03-073
480-123-100	NEW-W	99-13-095	480-143-010	REP-P	99-03-074	480-146-210	REP	99-08-054
480-123-110	NEW-W	99-13-095	480-143-010	REP	99-08-055	480-146-220	REP-P	99-03-073
480-123-120	NEW-W	99-13-095	480-143-020	REP-P	99-03-074	480-146-220	REP	99-08-054
480-123-130	NEW-W	99-13-095	480-143-020	REP	99-08-055	480-146-230	REP-P	99-03-073
480-123-140	NEW-W	99-13-095	480-143-030	REP-P	99-03-074	480-146-230	REP	99-08-054
480-123-150	NEW-W	99-13-095	480-143-030	REP	99-08-055	480-146-240	NEW-P	99-03-073
480-123-160	NEW-W	99-13-095	480-143-040	REP-P	99-03-074	480-146-240	NEW	99-08-054
480-123-170	NEW-W	99-13-095	480-143-040	REP	99-08-055	480-146-250	NEW-P	99-03-073
480-123-180	NEW-W	99-13-095	480-143-050	REP-P	99-03-074	480-146-250	NEW	99-08-054
480-123-190	NEW-W	99-13-095	480-143-050	REP	99-08-055	480-146-260	NEW-P	99-03-073
480-123-200	NEW-W	99-13-095	480-143-060	REP-P	99-03-074	480-146-260	NEW	99-08-054
480-123-210	NEW-W	99-13-095	480-143-060	REP	99-08-055	480-146-270	NEW-P	99-03-073
480-123-220	NEW-W	99-13-095	480-143-070	REP-P	99-03-074	480-146-270	NEW	99-08-054
480-123-230	NEW-W	99-13-095	480-143-070	REP	99-08-055	480-146-280	NEW-P	99-03-073
480-123-240	NEW-W	99-13-095	480-143-080	REP-P	99-03-074	480-146-280	NEW	99-08-054
480-123-250	NEW-W	99-13-095	480-143-080	REP	99-08-055	480-146-290	NEW-P	99-03-073
480-123-260	NEW-W	99-13-095	480-143-100	NEW-P	99-03-074	480-146-290	NEW	99-08-054
480-123-270	NEW-W	99-13-095	480-143-100	NEW	99-08-055	480-146-300	NEW-P	99-03-073
480-123-280	NEW-W	99-13-095	480-143-110	NEW-P	99-03-074	480-146-300	NEW	99-08-054
480-123-290	NEW-W	99-13-095	480-143-110	NEW	99-08-055	480-146-310	NEW-P	99-03-073
480-123-300	NEW-W	99-13-095	480-143-120	NEW-P	99-03-074	480-146-310	NEW	99-08-054
480-123-310	NEW-W	99-13-095	480-143-120	NEW	99-08-055	480-146-320	NEW-P	99-03-073
480-123-320	NEW-W	99-13-095	480-143-130	NEW-P	99-03-074	480-146-320	NEW	99-08-054
480-123-330	NEW-W	99-13-095	480-143-130	NEW	99-08-055	480-146-330	NEW-P	99-03-073
480-123-340	NEW-W	99-13-095	480-143-140	NEW-P	99-03-074	480-146-330	NEW	99-08-054
480-123-350	NEW-W	99-13-095	480-143-140	NEW	99-08-055	480-146-340	NEW-P	99-03-073
480-123-360	NEW-W	99-13-095	480-143-150	NEW-P	99-03-074	480-146-340	NEW	99-08-054
480-123-370	NEW-W	99-13-095	480-143-150	NEW	99-08-055	480-146-350	NEW-P	99-03-073
480-123-380	NEW-W	99-13-095	480-143-160	NEW-P	99-03-074	480-146-350	NEW	99-08-054
480-123-390	NEW-W	99-13-095	480-143-160	NEW	99-08-055	480-146-360	NEW-P	99-03-073
480-123-400	NEW-W	99-13-095	480-143-170	NEW-P	99-03-074	480-146-360	NEW	99-08-054
480-123-410	NEW-W	99-13-095	480-143-170	NEW	99-08-055	480-146-370	NEW-P	99-03-073



Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
480-146-370	NEW	99-08-054	490-500-437	PREP	99-06-081	516-13-090	AMD-P	99-03-011
480-146-380	NEW-P	99-03-073	490-500-437	REP-P	99-12-030	516-13-090	AMD-E	99-03-012
480-146-380	NEW	99-08-054	490-500-445	PREP	99-06-081	516-13-090	AMD	99-07-089
490-500-005	PREP	99-06-081	490-500-445	REP-P	99-12-030	516-15-050	AMD-P	99-03-011
490-500-005	REP-P	99-12-030	490-500-450	PREP	99-06-081	516-15-050	AMD-E	99-03-012
490-500-010	PREP	99-06-081	490-500-450	REP-P	99-12-030	516-15-050	AMD	99-07-089
490-500-010	REP-P	99-12-030	490-500-455	PREP	99-06-081	516-133	PREP	99-08-044
490-500-015	PREP	99-06-081	490-500-455	REP-P	99-12-030			
490-500-015	REP-P	99-12-030	490-500-460	PREP	99-06-081			
490-500-022	PREP	99-06-081	490-500-460	REP-P	99-12-030			
490-500-022	REP-P	99-12-030	490-500-465	PREP	99-06-081			
490-500-025	PREP	99-06-081	490-500-465	REP-P	99-12-030			
490-500-025	REP-P	99-12-030	490-500-470	PREP	99-06-081			
490-500-030	PREP	99-06-081	490-500-470	REP-P	99-12-030			
490-500-030	REP-P	99-12-030	490-500-475	PREP	99-06-081			
490-500-050	PREP	99-06-081	490-500-475	REP-P	99-12-030			
490-500-050	REP-P	99-12-030	490-500-477	PREP	99-06-081			
490-500-055	PREP	99-06-081	490-500-477	REP-P	99-12-030			
490-500-055	REP-P	99-12-030	490-500-480	PREP	99-06-081			
490-500-065	PREP	99-06-081	490-500-480	REP-P	99-12-030			
490-500-065	REP-P	99-12-030	490-500-485	PREP	99-06-081			
490-500-070	PREP	99-06-081	490-500-485	REP-P	99-12-030			
490-500-070	REP-P	99-12-030	490-500-500	PREP	99-06-081			
490-500-080	PREP	99-06-081	490-500-500	REP-P	99-12-030			
490-500-080	REP-P	99-12-030	490-500-505	PREP	99-06-081			
490-500-170	PREP	99-06-081	490-500-505	REP-P	99-12-030			
490-500-170	REP-P	99-12-030	490-500-510	PREP	99-06-081			
490-500-180	PREP	99-06-081	490-500-510	REP-P	99-12-030			
490-500-180	REP-P	99-12-030	490-500-525	PREP	99-06-081			
490-500-185	PREP	99-06-081	490-500-525	REP-P	99-12-030			
490-500-185	REP-P	99-12-030	490-500-530	PREP	99-06-081			
490-500-190	PREP	99-06-081	490-500-530	REP-P	99-12-030			
490-500-190	REP-P	99-12-030	490-500-542	PREP	99-06-081			
490-500-200	PREP	99-06-081	490-500-542	REP-P	99-12-030			
490-500-200	REP-P	99-12-030	490-500-545	PREP	99-06-081			
490-500-205	PREP	99-06-081	490-500-545	REP-P	99-12-030			
490-500-205	REP-P	99-12-030	490-500-555	PREP	99-06-081			
490-500-257	PREP	99-06-081	490-500-555	REP-P	99-12-030			
490-500-257	REP-P	99-12-030	490-500-560	PREP	99-06-081			
490-500-260	PREP	99-06-081	490-500-560	REP-P	99-12-030			
490-500-260	REP-P	99-12-030	490-500-580	PREP	99-06-081			
490-500-270	PREP	99-06-081	490-500-580	REP-P	99-12-030			
490-500-270	REP-P	99-12-030	490-500-590	PREP	99-06-081			
490-500-275	PREP	99-06-081	490-500-590	REP-P	99-12-030			
490-500-275	REP-P	99-12-030	490-500-600	PREP	99-06-081			
490-500-300	PREP	99-06-081	490-500-600	REP-P	99-12-030			
490-500-300	REP-P	99-12-030	490-500-605	PREP	99-06-081			
490-500-325	PREP	99-06-081	490-500-605	REP-P	99-12-030			
490-500-325	REP-P	99-12-030	490-500-615	PREP	99-06-081			
490-500-350	PREP	99-06-081	490-500-615	REP-P	99-12-030			
490-500-350	REP-P	99-12-030	490-500-620	PREP	99-06-081			
490-500-380	PREP	99-06-081	490-500-620	REP-P	99-12-030			
490-500-380	REP-P	99-12-030	490-500-622	PREP	99-06-081			
490-500-385	PREP	99-06-081	490-500-622	REP-P	99-12-030			
490-500-385	REP-P	99-12-030	490-500-625	PREP	99-06-081			
490-500-389	PREP	99-06-081	490-500-625	REP-P	99-12-030			
490-500-389	REP-P	99-12-030	490-500-627	PREP	99-06-081			
490-500-390	PREP	99-06-081	490-500-627	REP-P	99-12-030			
490-500-390	REP-P	99-12-030	490-500-630	PREP	99-06-081			
490-500-418	PREP	99-06-081	490-500-630	REP-P	99-12-030			
490-500-418	REP-P	99-12-030	490-500-635	PREP	99-06-081			
490-500-420	PREP	99-06-081	490-500-635	REP-P	99-12-030			
490-500-420	REP-P	99-12-030	491-02	PREP	99-13-170			
490-500-430	PREP	99-06-081	495D-120-040	PREP	99-15-006			
490-500-430	REP-P	99-12-030	495D-120-040	AMD-E	99-15-009			
490-500-435	PREP	99-06-081	495D-135-040	PREP	99-15-007			
490-500-435	REP-P	99-12-030	495D-135-040	AMD-E	99-15-008			



## Subject/Agency Index

(Citation in bold type refer to material in this issue)

### ACCOUNTANCY, BOARD OF

Certificates and licenses  
applications  
continuing education  
  
experience requirement  
professional education  
  
reasonable cause exemption  
reciprocity  
  
reinstatement  
  
renewal and fee cycle  
  
Confidential information  
Fees  
Hearings  
Meetings

PROP 99-13-063  
PREP 99-05-027  
PROP 99-13-071  
PROP 99-13-073  
PROP 99-13-077  
PROP 99-13-078  
PROP 99-13-062  
PROP 99-13-072  
PROP 99-13-074  
PROP 99-13-068  
PREP 99-05-027  
PROP 99-13-064  
PROP 99-13-066  
PROP 99-13-069  
PROP 99-13-070  
PROP 99-13-076  
PREP 99-05-025  
PREP 99-05-026  
PROP 99-13-061  
PROP 99-13-065  
PROP 99-13-067  
PROP 99-13-075  
PERM 99-02-008  
PERM 99-02-009  
PERM 99-02-008  
PREP 99-01-005  
MISC 99-02-007  
PROP 99-13-060

### ADMINISTRATIVE HEARINGS, OFFICE OF

Model rules of procedure  
  
Public records, availability  
  
Rules agenda  
SEPA compliance

PREP 99-13-188  
**PROP 99-17-107**  
PREP 99-13-188  
**PROP 99-17-107**  
MISC 99-13-189  
PREP 99-13-188  
**PROP 99-17-107**

### AGRICULTURE, DEPARTMENT OF

Alfalfa seed commission  
meetings  
Animal health  
brucellosis vaccine  
  
importation  
scrapie control  
  
tuberculosis in cervidae  
  
Aquatic weeds  
quarantine list  
Asparagus commission  
meetings  
Barley commission  
meetings  
Beef commission  
meetings  
  
Blueberry commission  
meetings  
  
Brands  
permanent renewal  
Bulb commission  
meetings  
Cattle  
brands  
feedlots  
brucellosis vaccine  
  
Chemicals  
picloran  
Cranberry commission  
meetings

MISC 99-01-037  
  
PROP 99-03-084  
PROP 99-03-087  
EXAD 99-07-115  
PERM 99-09-023  
PERM 99-09-025  
PROP 99-03-084  
PROP 99-03-086  
PERM 99-09-026  
PERM 99-14-032  
EXRE 99-07-114  
PERM 99-14-031  
  
**PREP 99-17-105**  
  
MISC 99-01-109  
  
MISC 99-02-010  
  
MISC 99-02-042  
MISC 99-09-031  
MISC 99-10-053  
MISC 99-13-128  
  
MISC 99-04-009  
MISC 99-07-047  
  
PREP 99-07-084  
  
MISC 99-01-017  
  
PREP 99-07-084  
  
EXAD 99-07-115  
PERM 99-14-032  
  
PREP 99-07-087  
  
MISC 99-04-010

Eggs and egg products  
  
Farmed salmon commission  
meetings  
Feed, commercial  
definitions  
  
labeling  
Fertilizers  
application rates for commercial fertilizers  
  
metals analysis methods  
  
storage and containment  
Field pea and chick pea  
standards  
Food processing operations  
  
Food safety  
frozen dessert processing  
pull date labeling  
  
raw fruit juice product labeling  
  
Food storage warehouses  
licensing  
sanitation consultants  
Frozen dessert processing  
Fruits and vegetables  
apple standards  
  
apricot standards  
  
grapevines  
registration and certification  
  
inspections  
  
onion, cantaloupe, rhubarb, and tomato standards  
  
peach standards  
inspection rule retained  
pear standards  
  
potato grade standards  
raw fruit juice product labeling  
  
Fryer commission  
meetings  
Grain  
inspection fee schedule  
  
Herbicides  
restricted use  
Hop board  
meetings  
membership qualifications  
  
Hops  
bales and tares  
  
certification and fee schedule  
Horticulture inspection district boundaries  
reference to word horticultural changed to  
fruits and vegetables  
  
Integrated pest management, interagency,  
coordinating committee meetings  
Iron supplements  
childproof caps

PREP 99-03-045  
PROP 99-07-118  
PERM 99-12-076  
**MISC 99-17-032**  
  
MISC 99-05-008  
  
PROP 99-13-164  
**PERM 99-17-043**  
PREP 99-12-101  
  
PROP 99-01-048  
PERM 99-02-035  
PROP 99-04-093  
PERM 99-08-037  
PROP 99-01-048  
PERM 99-02-035  
PREP 99-11-059  
  
PREP 99-04-096  
PROP 99-08-088  
PERM 99-13-001  
PREP 99-13-182  
  
PREP 99-12-123  
PREP 99-04-067  
PROP 99-09-095  
PERM 99-13-048  
PROP 99-07-117  
PERM 99-12-020  
  
PREP 99-13-179  
PREP 99-13-181  
PREP 99-12-123  
  
PREP 99-03-108  
PROP 99-11-096  
PERM 99-14-036  
PREP 99-04-094  
PROP 99-08-108  
**PERM 99-17-003**  
  
PREP 99-03-094  
EXAD 99-07-127  
PERM 99-12-025  
PREP 99-03-108  
PROP 99-11-096  
EXRE 99-08-112  
**PERM 99-17-001**  
  
PREP 99-08-111  
PREP 99-13-187  
**PROP 99-17-078**  
PREP 99-08-110  
PROP 99-07-117  
PERM 99-12-020  
  
MISC 99-01-123  
  
PREP 99-07-132  
PROP 99-11-095  
PERM 99-15-082  
  
PREP 99-13-162  
  
MISC 99-02-006  
PROP 99-02-063  
PERM 99-10-095  
  
PROP 99-02-066  
PERM 99-06-072  
**PREP 99-17-106**  
  
EXAD 99-08-113  
**PERM 99-17-002**  
  
MISC 99-07-017  
  
PREP 99-13-178  
PREP 99-16-089

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Livestock					
brands	PREP	99-07-084	Rules agenda	MISC	99-04-107
humane slaughter	PROP	99-16-100	Seeds	MISC	99-07-129
identification program	PREP	99-13-180	certification fees	PREP	99-04-095
Meat	PERM	99-04-069		PREP	99-04-096
custom slaughter and facilities	PROP	99-07-116		PROP	99-13-184
inspection of meat and poultry	PERM	99-12-021	Strawberry commission	PROP	99-13-185
Milk and milk products	EXRE	99-12-122	meetings	MISC	99-01-072
assessments and fees	PERM	99-16-086	Technical assistance		
bulk milk tanks and tankers	EXRE	99-16-087	lists of organizations	PROP	99-05-022
butter or other product used on popcorn, labeling	PREP	99-16-088	Tuberculosis in cervidae	PERM	99-08-039
processing plants, sanitary certificates	PREP	99-04-066	creation	EXRE	99-07-114
substandard products	PROP	99-14-072	national standards adopted	PERM	99-14-031
testers, weighers, samplers, and graders	PREP	99-13-177	Turfgrass seed commission		
Mint	PREP	99-12-124	creation	PERM	99-02-064
rootstock certification	EXRE	99-13-176	Weights and measures		
Mint commission	EXRE	99-13-175	national standards adopted	PROP	99-04-111
meetings	PREP	99-03-093	rates increased	PERM	99-07-056
Noxious weed control board	MISC	99-01-036	Wheat commission	MISC	99-06-009
aquatic weed list	<b>PREP</b>	<b>99-17-105</b>	meetings		
meetings	MISC	99-04-035	Wine commission		
noxious weed grant program	EXRE	99-07-124	assessments		
noxious weed list	PERM	99-11-087	rates increased	PREP	99-02-062
monetary penalties	PREP	99-13-039	meetings	PROP	99-06-070
quarantine list	<b>PREP</b>	<b>99-17-104</b>	national standards adopted	PERM	99-12-104
yellow nutsedge	PREP	99-07-123	rates increased	MISC	99-01-046
Nurseries			meetings	MISC	99-01-074
inspection fees	PREP	99-03-095	<b>AIR POLLUTION</b>		
Organic food	PROP	99-07-126	(See <b>ECOLOGY, DEPARTMENT OF</b> ; individual air		
brand name materials, registration	PERM	99-12-034	pollution control authorities)		
storage	PROP	99-13-195	<b>ALCOHOL BEVERAGES</b>		
Pesticide registration, commission on	PERM	99-16-054	(See <b>LIQUOR CONTROL BOARD</b> )		
meetings	PREP	99-12-003	<b>ARCHITECTS</b>		
Pesticides	MISC	99-08-042	(See <b>LICENSING, DEPARTMENT OF</b> )		
chemigation and fertigation	EXAD	99-15-033	<b>ARTS COMMISSION</b>		
desiccants and defoliant	PREP	99-13-163	Meetings	MISC	99-13-169
ethyl parathion	PREP	99-07-111	<b>ASIAN PACIFIC AMERICAN AFFAIRS, COMMISSION ON</b>		
ethylene dibromide (EDB) tolerances	EXRE	99-04-007	Meetings	MISC	99-01-018
heptachlor treated grain seed	PERM	99-07-112	<b>ATHLETICS</b>		
penalties for violations	EXRE	99-04-006	(See <b>LICENSING, DEPARTMENT OF</b> )		
phosdrin	PERM	99-07-113	<b>ATTORNEY GENERAL'S OFFICE</b>		
protection of pollinating insects	PREP	99-11-058	Lemon Law	PREP	99-15-079
revisions for clarification	PREP	99-07-086	Notice of request for opinion	MISC	99-01-152
storage and containment	PREP	99-02-021	Opinions	MISC	99-02-003
violations, rights of persons aggrieved by	EXAD	99-15-033	candidate disqualification (1999, No. 5)	MISC	99-17-017
wood destroying organisms	PREP	99-11-057	city council member compensation (1999, No. 1)	MISC	99-06-012
ziram	PREP	99-11-056	common school fund, investment (1999, No. 3)	MISC	99-14-003
Plant pests	EXAD	99-15-033	county meetings, authority to ban video or sound		
detection, testing and inspection fees	PREP	99-07-088	recordings (1998, No. 15)	MISC	99-01-107
grape phylloxera	PROP	99-03-096	gambling commission authority (1999, No. 7)	MISC	99-17-019
Popcorn	PROP	99-07-125	judicial conduct, commission on, operating		
butter or other product use, labeling	PERM	99-12-035	procedures (1999, No. 4)	MISC	99-14-004
Potato commission	PREP	99-03-090	law enforcement and fire fighter personnel,		
meetings	PROP	99-03-085	minimum age (1999, No. 6)	MISC	99-17-018
Poultry	PERM	99-09-024	military leave for public employees (1999, No. 2)	MISC	99-06-013
importation	PREP	99-13-177	public utility districts, authority (1998, No. 14)	MISC	99-01-106
Quarantine			<b>BASIC HEALTH PLAN</b>		
apple maggot	PREP	99-03-092	(See <b>HEALTH CARE AUTHORITY</b> )		
grape virus	PREP	99-03-091	<b>BATES TECHNICAL COLLEGE</b>		
yellow nutsedge	PREP	99-07-123	Meetings	MISC	99-07-092
Red raspberry commission			<b>BELLEVUE COMMUNITY COLLEGE</b>		
grades and packs, standards	PREP	99-01-180	Meetings	MISC	99-01-042
meetings	PROP	99-07-108	Public records, access	PROP	99-05-018
	PROP	99-11-024		PERM	99-10-045
	PROP	99-12-013			
	PROP	99-13-142			
	MISC	99-01-176			

## Subject/Agency Index

(Citation in bold type refer to material in this issue)

### BELLINGHAM TECHNICAL COLLEGE

Meetings	MISC	99-01-002
	MISC	99-01-108
	MISC	99-02-068
	MISC	99-05-007
	MISC	99-07-002
	MISC	99-08-018
	MISC	99-11-012
	MISC	99-13-005
	MISC	99-14-005
	MISC	<b>99-17-022</b>

### BENTON COUNTY CLEAN AIR AUTHORITY

Meetings	MISC	99-07-046
----------	------	-----------

### BLIND, DEPARTMENT OF SERVICES FOR THE

Client services, eligibility	PROP	99-01-022
	PERM	99-05-005

### BOILER RULES, BOARD OF

(See LABOR AND INDUSTRIES, DEPARTMENT OF)

### BUILDING CODE COUNCIL

Building code allowable shear tables	EMER	99-05-030
--------------------------------------	------	-----------

### CAPITOL CAMPUS

(See GENERAL ADMINISTRATION, DEPARTMENT OF)

### CASCADIA COMMUNITY COLLEGE

Meetings	MISC	99-01-047
	MISC	99-03-071

### CEMETERY BOARD

(See LICENSING, DEPARTMENT OF)

### CENTRAL WASHINGTON UNIVERSITY

Meetings	MISC	99-15-089
----------	------	-----------

### CENTRALIA COLLEGE

Meetings	MISC	99-01-071
----------	------	-----------

### CHILD SUPPORT

(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)

### CHILDREN'S SERVICES

(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)

### CLARK COLLEGE

Administration practices	PREP	99-06-011
	PROP	99-10-044
	PERM	99-15-017
Meetings	MISC	99-01-128

### CLARKSTON, PORT OF

Meetings	MISC	99-01-081
----------	------	-----------

### CLEMENCY AND PARDONS BOARD

(See GOVERNOR, OFFICE OF THE)

### CODE REVISER'S OFFICE

Quarterly reports  
 98-19 - 98-24 See Issue 99-02  
 99-01 - 99-06 See Issue 99-08  
 99-07 - 99-12 See Issue 99-14

### COLLEGES AND UNIVERSITIES

(See HIGHER EDUCATION COORDINATING BOARD; Names of individual institutions)

### COLUMBIA BASIN COLLEGE

Meetings	MISC	99-01-056
	MISC	<b>99-17-103</b>

### COLUMBIA RIVER GORGE COMMISSION

Urban area boundary revisions and proposed plan amendments	PROP	99-05-057
	PERM	99-09-041

### COMBINED FUND DRIVE

(See PERSONNEL, DEPARTMENT OF)

### COMMODITY COMMISSIONS

(See AGRICULTURE, DEPARTMENT OF)

### COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF

Bond cap allocation program	PREP	99-15-010
Bond users clearinghouse	PREP	99-08-059
Building permit fee	PERM	99-01-089
Community economic revitalization board meetings	MISC	99-04-041
	MISC	99-09-002
	MISC	99-15-049
Community services block grant	PREP	99-10-067
Early childhood education and assistance programs funding	EXAD	99-15-029
	PROP	99-15-106
	PREP	99-07-005
	EXAD	99-16-099
	PREP	99-06-025
	PROP	99-10-114
	PERM	99-15-062
Historic registers application process	PROP	99-03-098
	PROP	99-16-074
Homeless families with children funding	EMER	99-16-025
Industrial development	PREP	99-08-060
Long-term care ombudsman program	PROP	99-04-072
	<b>PROP</b>	<b>99-17-084</b>
	MISC	99-10-113
Low-income home energy assistance program	PROP	99-05-062
Public works board	MISC	99-01-091
financial assistance, standards meetings	MISC	99-06-018
	MISC	99-06-019
	MISC	99-15-005
public health need and substantial environmental degradation definitions	PERM	99-09-020
Rules coordinator	MISC	99-10-009

### COMMUNITY AND TECHNICAL COLLEGES, BOARD FOR

Exceptional faculty awards trust fund	PREP	99-04-029
	EMER	99-07-057
	PROP	99-08-013
	PERM	99-13-013
Information services, center for meetings	MISC	99-15-003
Meetings	MISC	99-01-045
	MISC	99-04-098
Participant outcomes data consortium meetings	MISC	99-10-014
Retirement plan	PREP	99-09-017
	PROP	99-13-043
	EMER	99-13-186
	PROP	99-14-019
	PROP	99-14-052
	PREP	99-08-057
	PROP	99-14-018
	EMER	99-14-020
	PREP	99-10-015

### CONVENTION AND TRADE CENTER

Meetings	MISC	99-01-044
	MISC	99-03-019
	MISC	99-06-010
	MISC	99-07-044
	MISC	99-09-047
	MISC	99-11-040
	MISC	99-13-056
	MISC	99-15-059
	<b>MISC</b>	<b>99-17-037</b>

### CORRECTIONS, DEPARTMENT OF

Correctional industries meetings	MISC	99-11-009
	MISC	99-14-058
Correctional operations meetings	MISC	99-11-077
Facilities site selection process	PREP	99-07-096
Meetings	MISC	99-06-008
Public records, availability	PREP	99-14-017

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Work release infractions	MISC	99-16-078	Solid waste local management plans	MISC	99-13-172
<b>COUNTY ROAD ADMINISTRATION BOARD</b>			Stormwater watershed-based municipal stormwater general permits	MISC	99-08-061
Meetings	MISC	99-01-006	Vessels inspection standards	MISC	99-04-115
	MISC	99-04-040		MISC	99-06-002
	MISC	99-11-018		MISC	99-13-100
Practice and procedure	MISC	99-16-076	Wastewater treatment plants operator certification	PROP	99-12-038
	PERM	99-01-020		PROP	99-13-101
	PERM	99-01-021	Water cleanup list	MISC	99-08-126
Rules coordinator	MISC	99-01-019	surface water quality standards	PREP	99-05-060
Rural arterial program	MISC	99-01-021	wastewater discharge fees	PREP	99-11-055
	PROP	99-09-084	fresh fruit packing industry NPDES permit	MISC	99-04-063
	PERM	99-16-038		MISC	99-09-022
	PROP	99-17-039	sand and gravel general permit	MISC	99-09-079
			treatment plant operator certification	MISC	99-13-193
<b>CRIME VICTIMS COMPENSATION</b>			Water conservancy boards procedures	PROP	99-12-109
(See LABOR AND INDUSTRIES, DEPARTMENT OF)			Water resources		
<b>CRIMINAL JUSTICE TRAINING COMMISSION</b>			Methow Valley River basin water conservation and management	PROP	99-09-092
Meetings	MISC	99-03-013	Upper Chehalis River watershed water temperature strategy	MISC	99-10-040
<b>DISCRIMINATION</b>			Water rights application processing	PROP	99-08-125
(See HUMAN RIGHTS COMMISSION)			changes or transfers	PERM	99-13-093
<b>EASTERN WASHINGTON UNIVERSITY</b>			exempt ground water withdrawals	MISC	99-04-032
Meetings	MISC	99-03-035	instream flows for Lower Skagit and Cultus Mountain tributaries	MISC	99-04-033
	MISC	99-03-072	Weather modification	PREP	99-15-093
	MISC	99-04-023	Wetland mitigation banks	EXAD	99-13-174
	MISC	99-06-015		PREP	99-03-097
	MISC	99-08-017	<b>ECONOMIC DEVELOPMENT FINANCE AUTHORITY</b>		
	MISC	99-11-082	Meetings	MISC	99-01-041
	MISC	99-13-155	<b>EDMONDS COMMUNITY COLLEGE</b>		
	MISC	99-15-063	Meetings	MISC	99-01-009
Rules coordinator	MISC	99-01-125		MISC	99-02-043
<b>ECOLOGY, DEPARTMENT OF</b>				MISC	99-02-051
Air pollution				MISC	99-03-015
acid rain program	PREP	99-13-173		MISC	99-04-064
aluminum smelter emissions	PREP	99-10-042		MISC	99-06-094
emission and performance for new sources standards compliance	EXAD	99-04-097		MISC	99-07-045
	PROP	99-12-096		MISC	99-08-067
emission standards	PREP	99-17-080		MISC	99-08-068
fees	PREP	99-12-093		MISC	99-11-008
prevention of significant deterioration program	PREP	99-09-093		MISC	99-12-023
vehicle emission inspection	PREP	99-15-092		MISC	99-13-026
visibility requirements	MISC	99-10-111		MISC	99-14-057
wood fired boilers	PREP	99-07-093		MISC	99-16-057
Burning			<b>EDUCATION, STATE BOARD OF</b>		
open, outdoor	PROP	99-07-110	Appeal procedures	PERM	99-01-172
Dam safety	MISC	99-15-094	Certification		
Environmental performance partnership agreement	MISC	99-10-110	compliance and requirements	PREP	99-04-087
Flood control assistance account program grants				PROP	99-07-070
public hearing on proposed award list	MISC	99-07-094	endorsements	PREP	99-12-040
Forest practices to protect salmonids	EMER	99-07-077	biology, chemistry, earth science, physics, mathematics	PROP	99-04-110
	EMER	99-09-001		PERM	99-07-102
Forest practices to protect water quality	PROP	99-02-016	early childhood education	PERM	99-06-005
	PROP	99-09-094	technology	PREP	99-04-109
Hazardous waste			school nurse	PREP	99-06-038
federal regulations, incorporation	PREP	99-10-041	school occupational therapist	PROP	99-10-003
Marine employee's commission meetings	MISC	99-09-018	school physical therapist	PERM	99-14-012
Marine safety			school speech-language pathologist or audiologist	PREP	99-06-038
State Environmental Policy Act (SEPA) compliance	EXRE	99-01-087	standards	PROP	99-10-003
	PERM	99-07-076		PREP	99-06-038
Municipal stormwater general permits	MISC	99-03-078		PROP	99-10-003
	MISC	99-03-079		PERM	99-06-038
Natural resource damage assessment committee meetings	MISC	99-12-039		PREP	99-10-003
Public participation grants	MISC	99-13-046		PERM	99-06-038
Radioactive waste				PREP	99-10-003
commercial low level disposal-site use permit	MISC	99-04-034		PERM	99-14-012
low level disposal	MISC	99-04-034		PREP	99-06-038
	EXAD	99-17-114		PROP	99-10-003
Rules agenda	MISC	99-04-047		PREP	99-06-038
	MISC	99-12-095		PROP	99-10-003
	MISC	99-16-039		PERM	99-06-038
Shoreline Management Act				PROP	99-10-003
guidelines for development of master programs	PROP	99-08-124		PERM	99-01-174
	PROP	99-12-094		PREP	99-16-059

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	PREP 99-16-062	<b>EMPLOYMENT SECURITY DEPARTMENT</b>	
	PREP 99-16-063	Academic year	EMER 99-05-003
Construction documents			EMER 99-13-003
compliance with public works provisions	PREP 99-04-086		PROP 99-13-183
	PROP 99-07-067	Agricultural liability	EXRE 99-13-108
Continuing education requirements	EMER 99-05-002	Definitions	EXRE 99-13-109
	PREP 99-06-039	Educational employees	EMER 99-05-003
	PROP 99-10-002	Employers	
	PERM 99-14-010	predecessor and successor employers	PROP 99-05-068
Early childhood special education			EXAD 99-11-090
subject area endorsement	PROP 99-01-171		EXAD 99-11-091
	PERM 99-06-005	reports	EXAD 99-11-092
Educational service districts			EXAD 99-11-093
criteria for organization	PREP 99-04-083		EXRE 99-12-108
	PROP 99-07-065	Farm labor contractors	EXRE 99-13-107
Elementary and secondary standards	PREP 99-04-089	Farm operations	
	PROP 99-07-068	family members	EXAD 99-13-111
Emergency exit drills	PREP 99-04-090	Farm operators, records	PREP 99-11-089
	PROP 99-07-073		<b>PROP 99-17-091</b>
Equivalency credit	PREP 99-04-091	Political subdivisions	EXRE 99-10-005
	PROP 99-07-072	Predecessor-successor transfers through	
	PROP 99-14-011	intermediaries	EXAD 99-11-091
Foreign course work, equivalency	PREP 99-16-060	Reasonable assurance	EMER 99-05-003
Funding of schools		Records retention	PREP 99-11-088
state support	PERM 99-04-008		PREP 99-11-089
	PROP 99-04-080		<b>PROP 99-17-092</b>
	PERM 99-10-091	Rules agenda	MISC 99-04-061
Health services	PREP 99-04-089		MISC 99-16-037
	PROP 99-08-081	Social Security numbers	EXRE 99-10-006
High schools		Taxes, payment of delinquent taxes of	
adult completion course work credit defined	PROP 99-04-081	predecessor employer	EXAD 99-11-090
	PERM 99-10-093	Tips as wages, reporting	EXAD 99-13-114
	PROP 99-04-082	Unemployment benefits	
graduation requirements	PROP 99-06-089	application process	PROP 99-01-161
	PREP 99-10-089		PERM 99-08-073
	PERM 99-10-094		PERM 99-15-069
	<b>PROP 99-17-085</b>	contractor and subcontractor compliance	EXRE 99-10-007
Internship certificate	PREP 99-16-061	definitions	EXAD 99-13-110
Marketing education	PERM 99-01-173		EXAD 99-13-113
Parents' rights	PREP 99-10-090	joint accounts	EXAD 99-13-112
	PROP 99-14-087	multistate employers, election to cover workers	EXAD 99-11-094
Physical education	PREP 99-04-085	nonprofit organizations, bonding and deposit	EXRE 99-10-008
	PROP 99-07-066	notices, posting	EXAD 99-13-116
Practice and procedure	PROP 99-04-079	voluntary quit	PREP 99-01-160
	PERM 99-10-092	work registration and job search requirements	PROP 99-09-097
Pupils			PERM 99-13-002
expulsion	PREP 99-12-016	Value of meals, lodging, and in-kind compensation	EXAD 99-13-115
general provisions	PREP 99-12-015		
students' rights	PREP 99-04-084		
	PROP 99-07-064		
School district organization	PREP 99-14-086		
School plant facilities		<b>ENERGY FACILITY SITE EVALUATION COUNCIL</b>	
state assistance	PROP 99-03-026	Meetings	MISC 99-09-029
basic state support	PREP 99-06-079		MISC 99-15-040
	PROP 99-14-090		
educational specifications and site selection	PREP 99-06-078	<b>ENGINEERS</b>	
	PREP 99-06-080	(See LICENSING, DEPARTMENT OF)	
	PROP 99-10-001	<b>EVERGREEN STATE COLLEGE</b>	
	PROP 99-14-088	(See THE EVERGREEN STATE COLLEGE)	
	PROP 99-14-089	<b>EXECUTIVE ETHICS BOARD</b>	
interdistrict cooperation in financing school		Administrative procedures	
plant construction	PREP 99-06-077	investigations	PERM 99-06-073
interdistrict transportation cooperatives	PREP 99-06-076	Meetings	MISC 99-12-107
modernization	PREP 99-06-075		MISC 99-16-110
preliminary provisions	PREP 99-06-074		
School staff assignments	PREP 99-03-001	<b>FERTILIZERS</b>	
	PERM 99-07-054	(See AGRICULTURE, DEPARTMENT OF)	
School year, length	PREP 99-04-088	<b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b>	
	PROP 99-07-069	Banks, division of	
Specialized services	PREP 99-04-092	fees increased	PREP 99-02-033
	PROP 99-07-071		EMER 99-02-034
Transportation			PROP 99-07-131
state assistance	PROP 99-01-157	Check cashers and sellers	PERM 99-10-024
	PERM 99-08-004	Consumer Finance Act	EXAD 99-14-007
Vocational education			EXRE 99-04-073
certification requirements	PERM 99-06-006	Consumer Loan Act	PERM 99-08-123
Vocational-technical teacher education programs	PREP 99-04-046	Credit unions	EXAD 99-14-006
	PROP 99-07-049	member business loans	
	PERM 99-12-014	Meetings	PERM 99-03-009
		Mortgage brokers and loan originators	MISC 99-04-099
		licensing	PREP 99-16-072

### ELECTIONS

(See SECRETARY OF STATE)

## Subject/Agency Index

(Citation in bold type refer to material in this issue)

Rules agenda	MISC 99-04-011	landing and delivery into state ports	EMER 99-16-016
	MISC 99-14-064	Puget Sound	EXAD 99-11-097
Securities division			EXAD 99-12-086
advertising and promotional material	PERM 99-03-053		EXAD 99-12-097
dishonest or unethical business practices	EXAD 99-01-155		EXAD 99-13-007
	PROP 99-14-077		EXAD 99-13-008
fair practice rules changed to conduct rules	EXAD 99-07-012	troll areas and seasons	EMER 99-16-017
	PERM 99-12-043		EMER 99-10-037
investment advisers			EMER 99-13-009
agency cross transactions	PERM 99-03-050		EMER 99-15-014
compensation	PREP 99-13-196		EMER 99-16-053
disclosures	PERM 99-03-052		<b>EMER 99-17-014</b>
examination	PREP 99-13-196		<b>EMER 99-17-045</b>
guidelines	MISC 99-04-039	sea cucumbers	
record-keeping requirements	PREP 99-13-196	areas and seasons	EMER 99-07-033
unethical practices	PERM 99-03-051		EMER 99-08-010
Trust companies			EMER 99-13-051
investments	PERM 99-01-119		PROP 99-13-118
			EMER 99-15-036
<b>FINANCIAL MANAGEMENT, OFFICE OF</b>			<b>EMER 99-17-005</b>
Meetings	MISC 99-03-034		<b>PREP 99-17-016</b>
Official pay dates for 1999-2000	EXAD 99-07-128		<b>EMER 99-17-047</b>
	PERM 99-12-081		<b>PERM 99-17-068</b>
<b>FIRE FIGHTERS</b>		sea urchins	
(See <b>RETIREMENT SYSTEMS, DEPARTMENT OF;</b>		areas and seasons	EMER 99-01-010
<b>VOLUNTEER FIRE FIGHTERS, BOARD FOR)</b>			EMER 99-01-079
			EMER 99-01-101
			EMER 99-01-153
			EMER 99-02-027
			EMER 99-03-054
			<b>PREP 99-17-016</b>
<b>FISH AND WILDLIFE, DEPARTMENT OF</b>		shad	
Aquaculture		areas and seasons	EMER 99-11-002
food fish/game fish lines	PREP 99-03-107		EMER 99-14-015
shellfish products and equipment	PERM 99-10-061	shellfish harvest	<b>PREP 99-17-013</b>
Dogs harassing deer or elk	EMER 99-08-063	shrimp fishery	
Driving on tideflats	PREP 99-15-080	coastal waters	PERM 99-01-154
Enhancement accounts			EMER 99-04-053
funding	PREP 99-09-040	emerging commercial fishery	EMER 99-09-036
	PROP 99-13-054		EMER 99-13-131
	<b>PERM 99-17-096</b>		EMER 99-16-032
Fish and wildlife commission		Puget Sound	EMER 99-10-050
meetings	MISC 99-02-046		EMER 99-14-014
	MISC 99-12-047		EMER 99-15-019
Fishing, commercial			<b>EMER 99-17-004</b>
bottomfish			<b>EMER 99-17-015</b>
coastal	EMER 99-02-017		<b>EMER 99-17-099</b>
	EMER 99-08-045	smelt	
	EMER 99-10-038	areas and seasons	PERM 99-02-001
	EMER 99-13-132	sturgeon	
	EMER 99-14-050	areas and seasons	EMER 99-01-146
	EMER 99-14-049		EMER 99-02-026
Puget Sound			EMER 99-08-048
crab fishery			EMER 99-13-012
areas and seasons	EMER 99-01-102	Fishing, personal use	
	EMER 99-02-004	Bridgeport fishing derby	
	EMER 99-08-011	crab	EMER 99-11-044
	EMER 99-10-011	areas and seasons	EMER 99-08-038
	EMER 99-10-023		EMER 99-08-058
	EMER 99-11-013		PERM 99-10-062
	EMER 99-11-021		EMER 99-11-014
	EMER 99-11-042		EMER 99-12-075
catch reporting	<b>PREP 99-17-033</b>		EMER 99-13-080
gear limitations	PREP 99-13-158		EMER 99-14-061
	PREP 99-15-068		EMER 99-15-038
			<b>EMER 99-17-006</b>
gillnet seasons		reporting rules	PREP 99-08-079
Columbia River	EMER 99-14-016		PROP 99-13-119
herring			<b>PERM 99-17-066</b>
areas and seasons	PREP 99-10-059	food fish	
	PROP 99-13-120	areas and seasons	EMER 99-12-002
	<b>PERM 99-17-067</b>		EMER 99-13-145
live fin fish, sale and importation for restaurant		free fishing weekends	EMER 99-13-058
trade	PREP 99-13-159	gamefish	
marine fish harvest	<b>PREP 99-17-013</b>	seasons and catch limits	EMER 99-08-046
Ocean Shores boat basin	<b>PREP 99-17-065</b>	exceptions to state-wide rules	EMER 99-09-015
otter trawl logbook	EMER 99-03-008		EMER 99-12-001
	EMER 99-09-035		EMER 99-12-002
salmon			EMER 99-12-019
Columbia River above Bonneville	EMER 99-04-059		EMER 99-13-099
	EMER 99-07-009		EMER 99-13-145
	EMER 99-01-146		
	EMER 99-05-055		
	EMER 99-06-031		
	EMER 99-10-022		
	EMER 99-14-016		
	EMER 99-16-052		



## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

halibut			highorn sheep	PREP	99-01-136
areas and seasons	EMER	99-11-043		PROP	99-05-063
	EMER	99-12-074		PERM	99-10-102
	EMER	99-15-013	cougar	PREP	99-01-136
Humptulips River closed to fishing	EMER	99-06-020		PROP	99-05-063
licenses	PERM	99-02-040		PERM	99-10-102
	PERM	99-03-029	deer	PREP	99-01-136
	PREP	99-03-106		PROP	99-05-063
	EMER	99-06-007		PERM	99-10-102
	PREP	99-10-060	disabled hunters		
	PROP	99-13-117	crossbow and cocking device	PROP	99-05-064
	<b>PERM</b>	<b>99-17-095</b>		PROP	99-10-112
marine preserve and conservation area boundaries	<b>PREP</b>	<b>99-17-041</b>	elk	PREP	99-01-136
recreational rules revision	EXAD	99-11-098		PROP	99-05-063
	PERM	99-15-081		PERM	99-10-102
				PREP	99-10-115
salmon				PROP	99-13-194
annual fishing rules	PREP	99-05-037	game management units (GMUs)	<b>EMER</b>	<b>99-17-082</b>
annual harvest	PROP	99-10-073		PREP	99-01-136
areas and seasons	EMER	99-08-046		PROP	99-05-063
	EMER	99-10-049	goose	PERM	99-10-102
	EMER	99-11-079		PREP	99-01-136
	EMER	99-12-044	hunting hours and small game permit hunts	PROP	99-05-063
	EMER	99-13-009		PERM	99-10-102
	EMER	99-13-130		PREP	99-01-136
	EMER	99-13-146		PROP	99-05-063
	EMER	99-14-048	migratory gamebirds	PERM	99-10-102
	EMER	99-15-015		PREP	99-10-104
	EMER	99-15-020		PROP	99-13-194
	EMER	99-15-061		<b>PERM</b>	<b>99-17-034</b>
	EMER	99-16-055	moose	PREP	99-01-136
	EMER	99-16-056		PROP	99-05-063
	<b>EMER</b>	<b>99-17-040</b>	mountain goat	PERM	99-10-102
	<b>EMER</b>	<b>99-17-069</b>		PREP	99-01-136
Columbia River	EMER	99-10-021		PROP	99-05-063
Puget Sound	EMER	99-05-061	private lands wildlife management areas	PERM	99-10-102
	EMER	99-16-065	restricted and closed areas	PERM	99-01-145
				PREP	99-01-136
shad			rules clarification	PROP	99-05-063
areas and seasons	EMER	99-07-006		PERM	99-10-102
	EMER	99-12-002	Prospecting	PREP	99-10-103
			gold and fish pamphlet	PROP	99-13-194
shellfish				EXRE	99-01-054
closed areas	EMER	99-13-145	small scale prospecting and mining	PERM	99-05-024
native clams	EMER	99-02-002		PERM	99-01-088
	EMER	99-07-008	Rules agenda	EXAD	99-05-023
	EMER	99-08-047		PERM	99-10-048
	EMER	99-09-034	Trapping	MISC	99-02-018
	EMER	99-11-038		MISC	99-14-013
	EMER	99-13-168	Volunteer cooperative projects	PREP	99-10-104
	EMER	99-15-037		PROP	99-13-194
	<b>EMER</b>	<b>99-17-046</b>		PROP	99-16-001
oysters	EMER	99-11-038		PREP	99-01-032
	EMER	99-13-168		PROP	99-05-075
	EMER	99-15-037		PROP	99-05-076
				PERM	99-11-003
shrimp				PERM	99-11-004
areas and seasons	EMER	99-10-035	Wildlife	<b>PREP</b>	<b>99-17-009</b>
	EMER	99-10-036	deleterious exotic wildlife		
	EMER	99-12-005	designation and control	PROP	99-01-055
	EMER	99-12-073		PERM	99-08-024
	EMER	99-16-030	endangered, threatened, or sensitive species	PREP	99-01-137
smelt					
areas and seasons	EMER	99-02-025	<b>FOOD ASSISTANCE PROGRAM</b>		
	EMER	99-07-007	(See <b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b> )		
sportfishing rules	PERM	99-08-029	<b>FOREST PRACTICES BOARD</b>		
steelhead			(See also <b>ECOLOGY, DEPARTMENT OF</b> )		
areas and seasons	EMER	99-04-060	Meetings	MISC	99-01-083
	EMER	99-08-046		<b>MISC</b>	<b>99-17-090</b>
			Protection for threatened and endangered salmonids	EMER	99-07-075
sturgeon				EMER	99-08-078
areas and seasons	EMER	99-09-014		EMER	99-16-081
	EMER	99-12-002	Rules agenda	MISC	99-01-082
	EMER	99-13-059		PROP	99-09-078
	EMER	99-14-051	Water quality	MISC	<b>99-17-089</b>
				PROP	99-01-070
Fishing, subsistence					
Columbia River tributaries	EMER	99-09-016			
	EMER	99-11-001			
	EMER	99-12-045			
	EMER	99-12-046			
	EMER	99-13-079			
	EMER	99-13-146			
Hunting					
bear	PREP	99-01-136			
	PROP	99-05-063			
	PERM	99-10-102			
	PERM	99-01-144			
big game auction permits and raffles					

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Water typing	EMER 99-07-074	Executive orders	
	EMER 99-08-077	council of economic advisors	MISC 99-04-027
	EMER 99-16-080	Legislative special session convened	MISC 99-11-015
<b>FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD</b>		Rescission	MISC 99-01-103
Organization and operation	PROP 99-13-156	School-to-work transition task force meetings	MISC 99-07-082
	EMER 99-13-157		
Projects	PROP 99-13-156	<b>GRAYS HARBOR COLLEGE</b>	
	EMER 99-13-157	Meetings	MISC 99-01-043
Public records, accessibility	PROP 99-13-156		MISC 99-01-124
	EMER 99-13-157		
<b>GAMBLING COMMISSION</b>		<b>GREEN RIVER COMMUNITY COLLEGE</b>	
Age requirement to participate in gambling activities	PREP 99-15-047	Meetings	MISC 99-02-005
Bingo		<b>GROWTH MANAGEMENT HEARINGS BOARDS</b>	
charitable and nonprofit licenses		Meetings	MISC 99-02-050
net return	PERM 99-03-103		MISC 99-04-045
	PREP 99-15-046	Practice and procedure	<b>PREP 99-17-081</b>
promotions	PREP 99-03-099		
	PREP 99-03-100	<b>HAZARDOUS WASTE</b>	
	PREP 99-03-101	(See <b>ECOLOGY, DEPARTMENT OF</b> )	
	PREP 99-03-102		
	PREP 99-04-005	<b>HEALTH, DEPARTMENT OF</b>	
	PROP 99-08-094	Antitrust immunity and competitive oversight transfer	PROP 99-04-049
Card rooms	PERM 99-11-078	Antitrust review fees	PREP 99-04-050
	PROP 99-08-093	Boarding homes	
house banked card games	PERM 99-12-082	civil fines	PROP 99-04-048
Licenses	PERM 99-13-103	Certificate of need	
qualifications	PREP 99-09-009	fees	PREP 99-05-011
	PREP 99-09-010	Chemical dependency professionals certification	
Promotional contests of chance	PROP 99-13-206	minimum standards	PROP 99-09-100
Public disclosure	PREP 99-09-011		PERM 99-13-084
	PREP 99-09-012	continuing competency disclosure requirements	PREP 99-15-034
Rules revision	PROP 99-13-205	educational programs	PREP 99-16-048
Washington blackjack	<b>PREP 99-17-038</b>	examination and AIDS education requirements	PREP 99-08-095
	PREP 99-07-095	retired active status	PREP 99-14-073
	PROP 99-09-096	Children with special health care needs program	PERM 99-01-100
	PERM 99-13-102		PERM 99-03-043
<b>GENERAL ADMINISTRATION, DEPARTMENT OF</b>		Chiropractic quality assurance commission standards and licenses	PREP 99-03-061
Capitol campus design advisory committee meetings	MISC 99-01-026	Community environmental health	
	MISC 99-01-118	on-site sewage systems	MISC 99-03-059
	MISC 99-05-020	Environmental health program fees	PROP 99-07-120
Capitol facilities division meetings	MISC 99-04-030		PERM 99-12-022
Capitol grounds rules		<b>Fees</b>	
penalties for violations removed	PREP 99-08-086	decreased for certain professions	PROP 99-02-057
	PROP 99-15-031		PERM 99-08-101
Federal surplus property	EXRE 99-01-151	public health programs	PROP 99-07-120
	PERM 99-06-001		PERM 99-12-022
Legislative building renovation and preservation, commission on meetings	MISC 99-15-002	Food workers' permit	PROP 99-08-097
Procurement, office of process			PERM 99-13-019
repeal of inapplicable rules	EXAD 99-10-069	Health professions quality assurance division complaint procedure	<b>MISC 99-17-071</b>
	PERM 99-15-070		<b>MISC 99-17-074</b>
Property development, division of meetings	EXRE 99-10-068	disability discrimination discipline	<b>MISC 99-17-072</b>
State capitol committee meetings	PERM 99-13-138		MISC 99-03-055
State vehicles		fees	MISC 99-13-033
insignia	MISC 99-08-002	intranet and internet use	MISC 99-13-031
	MISC 99-05-067		MISC 99-03-056
		meetings	MISC 99-13-029
<b>GOVERNOR, OFFICE OF THE</b>		records, accessibility	MISC 99-13-030
Clemency and pardons board meetings	MISC 99-04-065		MISC 99-13-034
	MISC 99-13-044	review of proposed statements procedures	MISC 99-13-036
Counties, state of emergency	MISC 99-03-028	sexual misconduct	MISC 99-13-028
	MISC 99-04-068	unlicensed practice	MISC 99-13-035
	MISC 99-06-041	whistleblower complaints	MISC 99-03-057
	MISC 99-06-096	Hearing and speech, board of audiology and speech-language pathology education requirements	MISC 99-13-032
	MISC 99-07-035		<b>MISC 99-17-075</b>
	MISC 99-07-055	minimum standards of practice	<b>MISC 99-17-073</b>
	MISC 99-07-083	hearing instrument fitters/dispensers	
	MISC 99-10-108	apprenticeship	PROP 99-01-097
Ecology, department of notice of appeal	MISC 99-05-001	hearing instrument purchase agreements	PERM 99-08-102
Thomas Lake appeal	MISC 99-07-052		EXAD 99-08-096
		referrals, documentation	PROP 99-11-036
			PROP 99-01-096
			PERM 99-08-103
			EXRE 99-16-046

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

surety bonding	PERM	99-07-019	Physician assistants	PROP	99-06-093
unfair practices	PERM	99-07-019	substance abuse monitoring surcharge	PERM	99-13-087
HIV			Physicians		
reporting	PROP	99-12-083	visa waiver	PREP	99-15-101
Hospitals			Podiatric medical board		
acute care hospital			clinical rotation	MISC	99-03-060
standards	PERM	99-04-052	continuing education	PROP	99-15-104
newborn screening fees	PROP	99-16-115	delegation of duties	PROP	99-08-100
Lead				PERM	99-14-074
reporting of blood lead levels	EXAD	99-06-091	Psychology, examining board of		
Local public health	PERM	99-11-037	continuing education	PROP	99-09-101
guidelines	PERM	99-03-062		PERM	99-14-075
rules review	PERM	99-03-063	Radiation protection		
LPN			dosimetry reporting	PROP	99-01-094
education supervision	MISC	99-02-060	industrial radiography equipment	PERM	99-05-013
standing orders and protocols	MISC	99-02-060		PROP	99-01-095
surgical technologist	MISC	99-02-059	machine facility registration fees	PERM	99-05-012
Marijuana				PROP	99-09-099
medical marijuana use	MISC	99-16-049	U.S. nuclear regulatory commission rules,	PERM	99-13-085
Medical quality assurance commission			compliance	PROP	99-12-130
sexual misconduct	PROP	99-07-121		PERM	99-15-105
standing orders and protocols	MISC	99-02-061	Rules agenda	MISC	99-16-050
Medical records			Schools		
fees allowed for searching and duplicating	PROP	99-10-078	scoliosis screening	PREP	99-11-031
Midwives	PERM	99-13-083	visual and auditory screening	PREP	99-11-030
examinations	PERM	99-03-064	Sex offender treatment provider program		
retired active status	PREP	99-06-090	certification	EXRE	99-01-093
Nursing assistants			treatment standards	PERM	99-07-018
fees	PREP	99-16-114		PREP	99-14-001
Nursing care quality assurance commission			Shellfish programs		
alcohol misuse	PREP	99-09-098	sewage disposal for commercial operation while		
camp medical personnel	MISC	99-11-029	operating a vessel	MISC	99-07-119
default documents	MISC	99-13-027	Surgical technologists		
definitions	PREP	99-11-032	registration	<b>PREP</b>	<b>99-17-076</b>
education programs	PREP	99-11-032	Temporary worker housing		
home health aids			building codes	PERM	99-03-065
simple trach care	MISC	99-02-058	cherry harvest	PREP	99-03-082
impaired practical nurse program, license				PROP	99-08-098
surcharge	PERM	99-01-099	drinking water	PERM	99-12-006
licenses				EMER	99-10-096
authorization to practice	PROP	99-06-092	Transient accommodations	PREP	99-15-108
	PROP	99-08-099	fees	PREP	99-10-077
	PERM	99-10-079	Veterinary board of governors		
endorsement	PREP	99-11-032	animal technicians		
	PROP	99-08-099	continuing education	PREP	99-15-102
qualifications	PERM	99-13-086	examination	PREP	99-15-103
	EXRE	99-01-092	veterinarian supervision	PREP	99-15-103
	EXAD	99-01-098	disciplinary reinstatement	EXRE	99-02-080
	PERM	99-08-104		PERM	99-14-076
nursing technicians	PREP	99-14-002	Water		
occlusive dressings	MISC	99-05-010	drinking water		
retired/active status	PREP	99-03-066	loan guidelines	MISC	99-10-075
scope of practice	MISC	99-13-037	standards	PERM	99-07-021
	MISC	99-13-038		PERM	99-10-076
sexual misconduct	PERM	99-04-051	Women, infants and children (WIC) nutrition		
standards of practice	PREP	99-11-034	program	PREP	99-13-082
telenursing	PREP	99-11-033			
vagal nerve stimulator magnet	MISC	99-05-009	<b>HEALTH CARE AUTHORITY</b>		
voluntary monitoring	MISC	99-03-058	Basic health plan		
Nursing home administrators, board of			appeals	PERM	99-07-078
complaints and hearing procedures	PERM	99-03-067	benefits	PREP	99-15-099
program manager	PERM	99-03-069	eligibility criteria	PREP	99-08-107
suitability and character	PERM	99-03-068		PROP	99-12-032
Opticians, dispensing contact lenses	MISC	99-11-027		PREP	99-15-098
Optometry, board of				PERM	99-16-022
vision care access	PERM	99-16-047	underreported income	PREP	99-05-077
Orthotist and prosthetists				PROP	99-08-106
examinations of candidates	PROP	99-03-083	Meetings	PROP	99-12-032
	PERM	99-07-122	Public employees benefits board	PERM	99-12-033
Osteopathic medicine and surgery			group participation standards	MISC	99-03-018
examinations	PREP	99-11-035			
osteopathic ophthalmologists	MISC	99-11-028	meetings	PREP	99-11-099
schools	PREP	99-13-020		PROP	99-14-081
standing orders and protocols	MISC	99-02-061		MISC	99-07-036
Pharmacy, board of				MISC	99-09-030
dronabinol	MISC	99-16-116		MISC	99-12-049
standing orders and protocols	MISC	99-02-061		MISC	99-16-004
				MISC	99-16-041

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

waiver of medical coverage	PREP	99-11-100	maternity and infant coverage	MISC	99-13-160
Rules agenda	PROP	99-14-082	mental health benefits	PROP	99-03-007
	MISC	99-06-101		PROP	99-03-037
Rules coordinator	MISC	99-15-012		PROP	99-16-073
	MISC	99-16-031	pharmacy benefits	PROP	99-16-106
<b>HEARING AND SPEECH, BOARD OF</b>				PROP	99-03-006
(See <b>HEALTH, DEPARTMENT OF</b> )				PROP	99-03-038
			provider contracts	PROP	99-16-073
<b>HIGHER EDUCATION COORDINATING BOARD</b>			rules clarification	PROP	99-12-106
Administrative requirements	EXAD	99-01-039	Life insurance	PREP	99-13-198
	PERM	99-06-021	annuity and deposit fund disclosure	PREP	99-13-199
Exemptions from authorization	EXAD	99-01-040	valuation of policies	PREP	99-13-197
	PERM	99-06-022	Physicians insurance exchange	MISC	99-11-022
Meetings	MISC	99-01-116	Rules agenda	<b>MISC</b>	<b>99-17-021</b>
Running start program	PREP	99-10-070	Safeco corporation acquisition	<b>MISC</b>	<b>99-17-020</b>
	EMER	99-14-034	Unigard security insurance company	MISC	99-07-058
	PROP	99-15-084			
State need grant	PROP	99-10-074			
	PERM	99-16-015			
<b>HIGHLINE COMMUNITY COLLEGE</b>			<b>INTEREST RATES</b>		
Meetings	MISC	99-01-110	(See inside front cover)		
	MISC	99-09-077			
<b>HISPANIC AFFAIRS, COMMISSION ON</b>			<b>INVESTMENT BOARD</b>		
Meetings	MISC	99-04-001	Meetings	MISC	99-01-141
			Rules coordinator	MISC	99-15-060
<b>HORSE RACING COMMISSION</b>			<b>JAIL INDUSTRIES BOARD</b>		
Horses			Meetings	MISC	99-03-022
identification	PERM	99-05-048	Rules agenda	MISC	99-03-021
Parimutuel rules	PROP	99-02-081			
	PERM	99-06-026	<b>JUDICIAL CONDUCT, COMMISSION ON</b>		
Race	PERM	99-05-047	Confidentiality	PROP	99-10-109
Satellite locations	PREP	99-03-014		<b>MISC</b>	<b>99-17-051</b>
Weights and equipment	PROP	99-02-082	Meetings	<b>MISC</b>	<b>99-17-100</b>
	PERM	99-05-049	Post-decision proceedings, procedure and confidentiality	PROP	99-09-050
				<b>PERM</b>	<b>99-17-050</b>
<b>HUMAN RIGHTS COMMISSION</b>			<b>LABOR AND INDUSTRIES, DEPARTMENT OF</b>		
Credit transactions	PREP	99-12-098	Accident prevention programs	EXAD	99-01-147
	<b>PROP</b>	<b>99-17-102</b>		PROP	99-10-072
Disability discrimination	PROP	99-04-108	Boiler rules, board of	<b>PERM</b>	<b>99-17-093</b>
	PREP	99-12-100	clear rule writing		
	PREP	99-13-121		PREP	99-05-021
	PERM	99-15-025	fees	<b>PROP</b>	<b>99-17-028</b>
Employment	PREP	99-12-098		PROP	99-04-036
	<b>PROP</b>	<b>99-17-102</b>	Conversion vendor units and medical units	PERM	99-08-049
Meetings	MISC	99-01-129	Crime victims compensation	PROP	99-13-200
Rules agenda	MISC	99-13-122	mental health treatment		
Rules coordinator	MISC	99-15-026		PREP	99-10-101
Sex discrimination	PREP	99-12-099	rules review	PROP	99-15-100
				PROP	99-01-179
<b>HUNTING</b>				PERM	99-07-004
(See <b>FISH AND WILDLIFE, DEPARTMENT OF</b> )				EXAD	99-16-112
<b>INDETERMINATE SENTENCE REVIEW BOARD</b>			Electrical board		
Hearing record preservation	MISC	99-07-081	practice and procedure	<b>PREP</b>	<b>99-17-115</b>
			Electronic signatures	PREP	99-02-083
<b>INDUSTRIAL INSURANCE APPEALS, BOARD OF</b>			Factory-assembled structures	PREP	99-05-078
Rules coordinator	MISC	99-04-043		PROP	99-08-129
				PERM	99-13-010
<b>INFORMATION SERVICES, CENTER FOR</b>				PROP	99-13-011
(See <b>COMMUNITY AND TECHNICAL COLLEGES, BOARD FOR</b> )				PROP	99-08-128
				PERM	99-12-080
<b>INFORMATION SERVICES, DEPARTMENT OF</b>			Fees		
Meetings	MISC	99-03-024	First-aid requirements	PREP	99-06-040
				PROP	99-15-086
<b>INSURANCE COMMISSIONER'S OFFICE</b>			Industrial Safety and Health Act (WISHA) abatement verification	PERM	99-02-019
Address	MISC	99-03-036	Minors		
Annual reports, filing requirements	EXAD	99-11-101	employment	EXRE	99-12-113
	PERM	99-16-035		PERM	99-15-071
Commercial property casualty insurance	PREP	99-12-105	Plumbers		
Fraternal benefit societies			advisory board		
risk-based surplus	PERM	99-01-142	position open	MISC	99-07-130
Health care services insurance			fees	EXAD	99-03-109
chemical dependency coverage	PROP	99-11-103		PERM	99-07-101
	PERM	99-16-005	Policy and interpretive statements	MISC	99-01-024
health care providers, inclusion	PROP	99-11-102		MISC	99-09-032
	PROP	99-13-045	Prevailing wage	MISC	99-14-021
	PERM	99-16-036	Rules agenda	MISC	99-04-116
health insurance pool	PREP	99-11-025		MISC	99-16-014
	PROP	99-14-085	Safety and health impact grant program	MISC	99-12-088
			Safety and health standards		

## Subject/Agency Index

(Citation in bold type refer to material in this issue)

amusement park rides	PREP	99-17-115	<b>LAND SURVEYORS</b>		
asbestos removal and encapsulation	PROP	99-08-071	(See LICENSING, DEPARTMENT OF)		
	PERM	99-17-026			
construction advisory commission			<b>LICENSING, DEPARTMENT OF</b>		
safety standards for construction work	PREP	99-07-015	Aircraft fuel tax	PREP	99-08-127
electrical equipment	PERM	99-05-052		PROP	99-15-096
electrical testing laboratories	PREP	99-17-115	Architects, board of registration for		
electrical workers	EXAD	99-04-078	licenses		
	PERM	99-09-080	renewal	PREP	99-01-001
emergency washing facilities	PERM	99-07-063		PROP	99-05-050
explosives manufacturing	EXRE	99-12-090	Athletic agents	PERM	99-08-062
	PERM	99-16-085	registration	EXRE	99-10-026
federal OSHA standards	PREP	99-07-014		PERM	99-14-035
	EXAD	99-12-089	Bail bond agents		
	PROP	99-13-144	rules review	PROP	99-08-087
	PERM	99-17-094	Boxing and martial arts	PREP	99-09-083
fire fighters	PERM	99-05-080		PREP	99-12-103
forklift operation	PREP	99-12-037		PROP	99-13-127
	PROP	99-16-084		PERM	99-17-048
hazardous waste operations and emergency responses	EXAD	99-01-149	Cemetery board		
	PERM	99-07-097	fees	PREP	99-10-017
logging operations	PROP	99-08-072		PROP	99-13-137
	PERM	99-17-117	Debt adjusters	PERM	99-16-079
longshore, stevedore, and related waterfront operations	PERM	99-02-023		EXRE	99-09-056
longshore and marine terminals	PERM	99-02-024	Engineers and land surveyors, board of	PERM	99-14-062
mechanical power transmission apparatus	PERM	99-12-091	registration for professional		
mines, pits, and quarries	PERM	99-01-023	branch offices	PREP	99-02-075
minors				PROP	99-10-082
nonagricultural employment	PERM	99-02-041	corporations and limited liability companies	PERM	99-15-053
	PROP	99-09-081		PREP	99-02-074
occupational health standards review	PREP	99-04-057		PROP	99-10-080
penalty calculation and assessment			documents	PERM	99-15-057
explanations clarified	PREP	99-08-069		PREP	99-02-079
policy and interpretive statements	MISC	99-02-069	fees and charges	PROP	99-10-087
power transmission devices	EXAD	99-13-165		PERM	99-15-056
pulp, paper, and paperboard mills and converters	PROP	99-06-071		PREP	99-02-070
	PERM	99-16-083	meetings and officers	PROP	99-08-132
respiratory protection	PERM	99-10-071		PERM	99-12-036
review of standards	PREP	99-04-057	offer to practice	PREP	99-02-072
scaffolds	PREP	99-08-070		MISC	99-03-017
telecommunications	PREP	99-15-085	renewals	PREP	99-02-076
vendor units	EXRE	99-16-113		PROP	99-10-083
	EXAD	99-17-116	retired status certificate of registration	PERM	99-15-054
State funded nursing homes				PREP	99-02-073
zero-lift environment discount	EMER	99-04-106	seals	PROP	99-10-088
Temporary worker building code				PERM	99-15-051
cherry harvest housing	PREP	99-15-107	seals/stamp usage	PREP	99-07-134
factory-built structures	PREP	99-01-178		PROP	99-10-081
	PROP	99-08-130	signature	PERM	99-15-052
	PERM	99-12-079	electronic signature definition	PREP	99-02-077
Workers' compensation			supervision	PROP	99-10-084
accident fund			temporary permits	PERM	99-15-058
dividend distribution	EMER	99-02-022	Funeral directors and embalmers	PREP	99-02-078
benefit payments	PREP	99-10-025	fees	PROP	99-10-085
	PROP	99-13-201		PERM	99-15-055
classification plan			Landscape architects		
premium rates	PREP	99-07-100	fees	PREP	99-07-136
reporting and collection of premiums	PREP	99-07-099	Limousine businesses	PREP	99-07-135
	PROP	99-12-115	Martial arts contests	PROP	99-10-086
definitions	PREP	99-16-111	Model traffic ordinance	PERM	99-15-050
health care reimbursement rates	PREP	99-01-177		PREP	99-02-071
	PROP	99-05-079	Motor vehicle excise tax credit	PREP	99-07-040
	PERM	99-10-043		PROP	99-07-079
	PREP	99-12-114	Motor vehicles	PREP	99-07-080
medical coverage, determination	PROP	99-13-202	abandoned and unauthorized vehicles, impound	PROP	99-09-044
provider reporting requirements	PREP	99-13-204	certificate of title	PERM	99-13-151
retrospective rating	PREP	99-05-051			
	PREP	99-13-203			
self-insurers	PREP	99-14-084			
<b>LAKE WASHINGTON TECHNICAL COLLEGE</b>					
Meetings	MISC	99-01-004			
	MISC	99-07-037			
Students					
conduct code	PREP	99-15-006			
	EMER	99-15-009			
	PREP	99-15-007			
refunds	EMER	99-15-008			

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	PERM 99-02-049		PERM 99-10-066
	PROP 99-04-037	Breweries	
	PROP 99-04-038	nonretail licensees	PREP 99-12-125
	PERM 99-06-037	Credit card or debit card use	PERM 99-04-114
	PROP 99-07-016	Electronic funds transfer	PREP 99-04-002
	PERM 99-08-064	Hearing methods	
	PERM 99-08-065	contested cases	PREP 99-12-126
	PROP 99-09-043		<b>PROP</b> 99-17-098
	PERM 99-12-031	rules review	EXRE 99-09-038
	PREP 99-13-006		PERM 99-15-023
	PROP 99-13-081	Licenses	
	PREP 99-13-139	general requirements	PREP 99-12-128
	PERM 99-13-150	motels	PREP 99-12-127
	<b>PROP</b> 99-17-030	penalty guidelines	PERM 99-03-032
confidential license plates	PROP 99-12-111	retail	PERM 99-03-033
	PERM 99-16-020	rules review	PROP 99-06-097
dealers and manufacturers	PROP 99-05-059	Malt beverages	PERM 99-13-042
rules review	PREP 99-10-054	tax reporting and filing	PREP 99-09-039
destroyed vehicles, reporting	PREP 99-11-016	Operations and procedures	
disabled person parking	EMER 99-16-019		PREP 99-04-112
	<b>PROP</b> 99-17-109		EXAD 99-12-084
			PERM 99-16-119
drivers' licenses	PROP 99-02-052	Sports, entertainment facilities	
extension	PERM 99-05-032	alcohol service	PROP 99-07-085
	PREP 99-10-058		PROP 99-16-118
foreign organization license plates	PREP 99-10-055	Tobacco products	
foreign plated vehicles, operation	PREP 99-10-058	sale or handling by employees under age eighteen	PERM 99-03-031
honorary consul license plates	PERM 99-01-133	Violations	
licenses	PROP 99-01-139	administrative procedure	PROP 99-08-014
	PREP 99-03-003		PERM 99-12-129
	PERM 99-06-029	Wineries	
	PREP 99-12-018	nonretail licensees	PREP 99-12-125
limousine businesses	PREP 99-13-149		
snowmobiles and off-road vehicles	PREP 99-10-056	<b>LOTTERY, COMMISSION</b>	
special license plates	EMER 99-16-018	Instant game rules	EXRE 99-10-031
trip permits	PREP 99-10-056	Lotto	
veterans	PREP 99-10-056	cash option	PREP 99-10-051
Practice and procedure	PERM 99-01-104		PROP 99-13-148
Public records disclosure		drawing dates	PROP 99-04-012
copying fees	EXAD 99-05-004		PROP 99-05-036
	PERM 99-09-045	Meetings	PROP 99-10-052
definitions	PREP 99-08-036		MISC 99-08-009
	PROP 99-12-026	On-line games	MISC 99-13-147
Real estate appraisers	<b>PERM</b> 99-17-031	ticket sales	PERM 99-04-077
continuing education	PROP 99-08-028	Policy summaries	MISC 99-06-014
	PERM 99-11-039		MISC 99-10-099
fees	PERM 99-04-075	Probability of winning	MISC 99-16-010
uniform standards of practice	PROP 99-01-158	Quinto	PREP 99-16-006
	PERM 99-04-074	drawing dates	PROP 99-04-012
Real estate commission		Retailer compensation	PERM 99-16-008
brokers and salesmen	PERM 99-03-042	Retailer licensing	PREP 99-04-003
rules review	MISC 99-03-027		PERM 99-01-038
Rules agenda	MISC 99-15-022	Scratch games	PREP 99-04-076
		closed games	PERM 99-16-007
Title and registration advisory committee	MISC 99-13-041		
meetings	PREP 99-12-102	<b>LOWER COLUMBIA COLLEGE</b>	
Travel sellers		Rules coordinator	MISC 99-01-007
Uniform commercial code filing office			
fees	PERM 99-06-003	<b>MARINE EMPLOYEES' COMMISSION</b>	
	PREP 99-15-091	Meetings	MISC 99-12-010
	<b>PREP</b> 99-17-027		MISC 99-16-058
	<b>PREP</b> 99-17-027	<b>MARINE SAFETY</b>	
forms		(See <b>ECOLOGY, DEPARTMENT OF</b> )	
Vessels	PERM 99-01-134	<b>MEDICAL ASSISTANCE</b>	
registration and certificate of title	PROP 99-02-012	(See <b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b> )	
	PERM 99-03-002	<b>MEDICAL CARE</b>	
	PERM 99-07-041	(See <b>HEALTH, DEPARTMENT OF</b> )	
	PREP 99-10-057		
	PROP 99-15-097	<b>MILITARY DEPARTMENT</b>	
	<b>PROP</b> 99-17-070	911 enhanced funding	PREP 99-06-024
	<b>PROP</b> 99-17-108		
Wastewater treatment system designers		<b>MINORITY AND WOMEN'S BUSINESS ENTERPRISES, OFFICE OF</b>	
licensing	PREP 99-16-064	Annual goals	PREP 99-05-082
		Political subdivision fees	PREP 99-05-083
<b>LIQUOR CONTROL BOARD</b>			
Added activities on licensed premises	PREP 99-04-113		
Advertising by licensees	<b>PREP</b> 99-17-097		
Alcohol impact areas	PROP 99-06-097		
	PERM 99-13-042		
Alcoholic beverages brought into state for personal use	PROP 99-05-014		

## Subject/Agency Index

(Citation in bold type refer to material in this issue)

### MODEL RULES OF PROCEDURE (See ADMINISTRATIVE HEARINGS, OFFICE OF)

### MODEL TRAFFIC ORDINANCE (See LICENSING, DEPARTMENT OF)

### MOTOR VEHICLES (See LICENSING, DEPARTMENT OF; TRANSPORTATION, DEPARTMENT OF; UTILITIES AND TRANSPORTATION COMMISSION; WASHINGTON STATE PATROL)

### NATURAL RESOURCES, DEPARTMENT OF

Aquatic lands exchange	PERM	99-07-034
Burning permit fees	PROP	99-08-117
	PERM	99-12-085
Fire hazard closures	EMER	99-15-001
Meetings	MISC	99-02-028
	MISC	99-08-083
Milwaukee Road Corridor-recreation use	PREP	99-08-116
	PROP	99-12-092

### NURSING CARE (See HEALTH, DEPARTMENT OF)

### OLYMPIC AIR POLLUTION CONTROL AUTHORITY

Construction notice	PROP	99-17-086
Registration	PROP	99-17-086

### OLYMPIC COLLEGE

Meetings	MISC	99-01-025
	MISC	99-04-044

### OSTEOPATHY (See HEALTH, DEPARTMENT OF)

### OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR

Meetings	MISC	99-03-047
	MISC	99-03-048
	MISC	99-13-014
	MISC	99-17-049
Off-road vehicle funds	EXAD	99-01-148
	PREP	99-08-092
	PROP	99-08-114
	PERM	99-16-009

### PARKS AND RECREATION COMMISSION

Marine facilities moorage and use	PROP	99-01-120
	PERM	99-04-117
Meetings	MISC	99-01-135
	MISC	99-13-143
Pass program	PREP	99-16-082
Public use of park areas	PROP	99-04-118
	PERM	99-08-031
	PREP	99-16-033
Trails bicycle and equestrian use	PREP	99-06-042
	PROP	99-10-065
	PERM	99-15-030
Wind/sand sailing on ocean beaches	PROP	99-08-084

### PENINSULA COLLEGE

Meetings	MISC	99-13-055
WAC update	PREP	99-07-060
	PROP	99-10-100
	PERM	99-15-072
	EXRE	99-16-028
	PERM	99-16-029

### PERSONNEL, DEPARTMENT OF

Affirmative action-governor's affirmative action policy committee meetings	MISC	99-01-085
Initiative 200 compliance	EMER	99-01-050
	EMER	99-01-051
	PROP	99-02-053
	PROP	99-02-054
	PERM	99-05-042
	PERM	99-05-043
	PROP	99-16-104
	PROP	99-13-104
	PROP	99-16-103
responsibilities		
Call-back for work		

Certifications		
actions required	PERM	99-03-044
Combined fund drive	PREP	99-05-081
	PROP	99-08-109
	PERM	99-14-022
Examinations	PROP	99-13-104
Housekeeping changes and rules clarification	PROP	99-05-058
Internship program	PROP	99-16-104
Meetings	MISC	99-01-049
Performance evaluations	PROP	99-16-101
Probationary period	PERM	99-01-052
Public records, availability	PROP	99-16-104
Relocation compensation	PROP	99-16-102
Training and development programs	PROP	99-13-105
	PROP	99-16-104
	PROP	99-13-106
Trial service		

### PERSONNEL RESOURCES BOARD (See PERSONNEL, DEPARTMENT OF)

### PESTICIDES (See AGRICULTURE, DEPARTMENT OF)

### PIERCE COLLEGE

Meetings	MISC	99-01-122
	MISC	99-11-045
	MISC	99-12-012
	MISC	99-12-048
	MISC	99-13-015
	MISC	99-13-129
Student rights and responsibilities/code of conduct	PREP	99-04-028
	PROP	99-07-109
	PERM	99-10-046

### PILOTAGE COMMISSIONERS, BOARD OF

Grays Harbor district annual tariff	PROP	99-12-028
	PERM	99-16-027
New pilots, limitations	PROP	99-01-117
	PERM	99-08-003
Puget Sound district annual tariff	PROP	99-08-075
	PERM	99-12-027

### PROCUREMENT, OFFICE OF (See GENERAL ADMINISTRATION, DEPARTMENT OF)

### PRODUCTIVITY BOARD (See SECRETARY OF STATE)

### PROPERTY TAX (See REVENUE, DEPARTMENT OF)

### PROSPECTING (See FISH AND WILDLIFE, DEPARTMENT OF)

### PUBLIC ASSISTANCE (See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)

### PUBLIC DISCLOSURE COMMISSION

Agency rules		
uniform procedure and format for public	PREP	99-06-050
	PROP	99-09-062
	PERM	99-12-056

Candidates		
registration	PREP	99-16-045
Commercial advertisers		
public inspection of records	PREP	99-06-064
	PROP	99-09-074
	PERM	99-12-068

Contributions to candidates, elected officials, political committees or public office fund forms for reporting	PREP	99-16-042
	PREP	99-16-043

lobbyist making contributions on behalf of employer	PREP	99-06-067
	PROP	99-09-059
	PERM	99-12-053

Elected public officials		
annual list	PREP	99-06-059
	PROP	99-09-070
	PERM	99-12-064
name not on list, impact	PREP	99-06-061
	PROP	99-09-071

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

responsibility for developing	PERM 99-12-065	Running start program	PREP 99-09-008
	PREP 99-06-060		EMER 99-13-124
	PROP 99-09-058	Salary allocations	PREP 99-11-061
	PERM 99-12-052		PROP 99-15-048
Freedom of communication		Special education services	PREP 99-06-049
employer interference	PREP 99-06-068		PREP 99-11-063
	PROP 99-09-060		PREP 99-11-065
	PERM 99-12-054	Vocational education students	<b>PROP</b> 99-17-101
Legislature			PREP 99-11-066
form for report of legislative activity by			
legislators and staff	PREP 99-06-069		
	PROP 99-09-061		
	PERM 99-12-055		
Lobbyist registration			
last calendar quarter of biennial period	PREP 99-06-065		
	PROP 99-09-075		
	PERM 99-12-069		
termination	PREP 99-06-066		
	PROP 99-09-076		
	PERM 99-12-070		
Meetings	MISC 99-16-003		
Political advertising			
political party identification	PREP 99-06-063		
	PROP 99-09-073		
	PERM 99-12-067		
Political committees			
registration	PREP 99-16-044		
Public records			
campaign books, inspection	MISC 99-14-080		
	PREP 99-16-044		
copying charges for records on CDs and diskettes	PREP 99-06-054		
	PROP 99-09-066		
	PERM 99-12-060		
hours for inspection and copying	PREP 99-06-052		
	PROP 99-09-064		
	PERM 99-12-058		
index	PREP 99-06-057		
	PROP 99-09-069		
	PERM 99-12-063		
officer	PREP 99-06-051		
	PROP 99-09-063		
	PERM 99-12-057		
public inspection			
exemptions	PREP 99-06-055		
	PROP 99-09-067		
	PERM 99-12-061		
requests	PREP 99-06-053		
	PROP 99-09-065		
	PERM 99-12-059		
forms	PREP 99-06-058		
	PROP 99-09-057		
	PERM 99-12-051		
review of denials	PREP 99-06-056		
	PROP 99-09-068		
	PERM 99-12-062		
Rules agenda	MISC 99-01-150		
Sample ballots	PREP 99-06-062		
	PROP 99-09-072		
	PERM 99-12-066		
<b>PUBLIC EMPLOYEES BENEFITS BOARD</b>			
(See <b>HEALTH CARE AUTHORITY</b> )			
<b>PUBLIC EMPLOYMENT RELATIONS COMMISSION</b>			
Interest arbitration and grievance rules	PREP 99-04-013		
	PROP 99-10-107		
	PERM 99-14-060		
Meetings	MISC 99-02-011		
Rules agenda	MISC 99-01-086		
	MISC 99-14-059		
<b>PUBLIC INSTRUCTION, SUPERINTENDENT OF</b>			
Alternative learning experience			
requirements	PERM 99-08-008		
	PROP 99-13-094		
Certificated instructional staff			
ratio compliance	PREP 99-16-077		
K-4 staff enhancement funding	PREP 99-11-062		
Learning improvement days	EMER 99-12-087		
Local effort assistance allocations	PREP 99-11-064		
Reports	PREP 99-11-067		
Rules coordinator	MISC 99-13-004		
		Law enforcement officers and fire fighters	EXRE 99-08-074
		retirement system (LEOFF)	PERM 99-12-041
		disability determination	PREP 99-09-006
			PROP 99-13-166
			PERM 99-16-075
		rules update	PREP 99-11-005
		Meetings	MISC 99-02-029
		Public employees' retirement system (PERS)	
		rules update	PREP 99-07-026
			PROP 99-11-006
			PERM 99-14-008
		service credit	PREP 99-12-042
		Teachers' retirement system (TRS)	
		plan 1	PREP 99-07-026
			PROP 99-11-006
		plan 3	PREP 99-12-042
		Untimely or deficient reporting	EXRE 99-08-074
			PERM 99-12-041
		<b>REVENUE, DEPARTMENT OF</b>	
		Abandoned property	EXRE 99-04-018
			PERM 99-08-007
			EXRE 99-10-032
			PERM 99-14-056



## Subject/Agency Index

(Citation in bold type refer to material in this issue)

Business and occupation tax extractors	EMER 99-12-077	fuel oil, oil products, other extracted products	EXRE 99-04-019
	PREP 99-12-078	landfill gas, wind, and solar energy electric generating facilities	EXAD 99-06-028
laundries and dry cleaners	EXAD 99-08-032		PERM 99-11-106
	PERM 99-13-052	manufacturers and processors for hire	EMER 99-12-077
sales of meals	EXAD 99-06-027		PREP 99-12-078
	PERM 99-11-107	watercraft to nonresidents	EXAD 99-04-020
successor to person quitting business	PROP 99-04-014		
	PERM 99-08-034	<b>RULES COORDINATORS</b>	
veterinarians	PROP 99-04-015	(See Issue 99-01 for a complete list of rules coordinators designated as of 12/24/98)	
	PERM 99-08-033	Community, trade and economic development, department of	MISC 99-10-009
Deductibility business and occupation tax, sales tax, public utility tax	EXAD 99-08-022	County road administration board	MISC 99-01-019
	PERM 99-13-053	Eastern Washington University	MISC 99-01-125
Estate taxes		Health care authority	MISC 99-16-031
rule revisions	PREP 99-07-133	Human rights commission	MISC 99-15-026
	PROP 99-11-104	Industrial insurance appeals, board of	MISC 99-04-043
	PERM 99-15-095	Insurance commissioner, office of	MISC 99-03-036
waiver or cancellation of penalty	PERM 99-03-010	Investment board	MISC 99-15-060
Excise taxes		Lower Columbia College	MISC 99-01-007
educational institutions	PERM 99-03-005	Public instruction, superintendent of	MISC 99-13-004
fuel oil, oil products, other extracted products	EXRE 99-04-019	Treasurer, office of the state	MISC 99-16-026
	PERM 99-08-005	Veterans affairs, department of	MISC 99-01-130
Indian reservations	PREP 99-09-082	Washington state library	MISC 99-05-019
internal distribution tax	PERM 99-02-055		MISC 99-11-011
landscape and horticultural services	EXAD 99-04-021	Western Washington University	MISC 99-02-067
	PERM 99-09-013		
leasehold excise tax	<b>PROP 99-17-088</b>	<b>RUNNING START PROGRAM</b>	
pattern makers	EXRE 99-04-019	(See <b>HIGHER EDUCATION COORDINATING BOARD</b> )	
payment responsibilities	PROP 99-10-034		
poultry and hatching egg producers	EXRE 99-04-019	<b>SAFETY STANDARDS</b>	
real estate excise tax	PROP 99-10-033	(See <b>LABOR AND INDUSTRIES, DEPARTMENT OF</b> )	
	PERM 99-14-053		
ride sharing exemptions and credits	PROP 99-04-022	<b>SALES TAX</b>	
	PERM 99-08-035	(See <b>REVENUE, DEPARTMENT OF</b> )	
Intercountry utilities and transportation companies	PERM 99-04-031		
	PERM 99-08-006	<b>SCHOOL-TO-WORK TRANSITION TASK FORCE</b>	
Interpretive statements	MISC 99-14-067	(See <b>GOVERNOR, OFFICE OF THE</b> )	
	MISC 99-14-068		
Legal, arbitration, and mediation services	EXAD 99-08-023	<b>SCHOOLS</b>	
	PERM 99-13-092	(See <b>EDUCATION, STATE BOARD OF</b> )	
Property tax		<b>SEATTLE COMMUNITY COLLEGES</b>	
agricultural land valuation	PERM 99-01-067	Meetings	MISC 99-01-061
deferral	PREP 99-11-105		
emergency or transitional housing	EXAD 99-07-090	<b>SECRETARY OF STATE</b>	
	PERM 99-13-018	Elections	
exemptions	PREP 99-09-085	absentee ballots	
	PROP 99-13-017	mailing methods	PREP 99-07-042
forest land valuation	PERM 99-02-030	ballots	PREP 99-01-064
homes for aging	EMER 99-02-031		PROP 99-05-033
	PERM 99-04-016	computer file of registered voters	PERM 99-08-089
inflation rate	PERM 99-01-068	county procedures, review	PREP 99-10-106
open space classification	EXRE 99-13-016		<b>EMER 99-17-008</b>
	<b>PERM 99-17-042</b>	inactive voters, cancellation notice	PROP 99-05-054
refunds, rate of interest	PERM 99-01-066		PROP 99-07-043
reevaluation	PREP 99-05-069	logic and accuracy tests	PERM 99-12-004
timber and forest products	EXRE 99-04-017	officials, certification	PREP 99-01-064
Public utility tax		presidential primary	PROP 99-05-053
low-density light and power deduction	MISC 99-14-054	Electronic Authentication Act	PROP 99-05-034
Rules agenda	MISC 99-01-175	implementation	PERM 99-08-115
	MISC 99-14-091	International student exchange agencies registration	PREP 99-01-065
Sales of meals	EXAD 99-06-027		PREP 99-10-106
Sales tax		Limited liability companies	
direct seller's representative, sales to or through	PREP 99-11-041	fees	EXAD 99-05-039
	<b>PROP 99-17-029</b>	Limited partnerships	PERM 99-12-007
games of chance	PROP 99-05-017	fees	EXAD 99-05-038
	PERM 99-08-090		PERM 99-12-008
landfill gas, wind, and solar energy electric generating facilities	EXAD 99-06-028	Productivity board	
	PERM 99-11-106	employees' suggestion awards	EMER 99-16-012
manufacturers and processors for hire	EMER 99-12-077	meetings	<b>PREP 99-17-112</b>
	PREP 99-12-078	teamwork incentive program	MISC 99-15-018
watercraft to nonresidents	EXAD 99-04-020		EMER 99-16-013
	<b>PROP 99-17-083</b>		<b>PREP 99-17-113</b>
Timber excise tax			
stumpage values	PERM 99-02-032		
	PREP 99-06-036		
	PROP 99-10-039		
	PERM 99-14-055		
Use tax			
advertising materials printed outside state	PREP 99-01-090		

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Public records				Developmental disabilities, division of			
electronic imaging systems for maintenance	PREP	99-16-117		family support opportunity			
<b>SECURITIES</b>				pilot program	PERM	99-04-071	
(See <b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b> )				service providers, standards	PREP	99-10-063	
<b>SEX OFFENDER TREATMENT PROVIDER PROGRAM</b>				Domestic violence perpetrator program	PROP	99-15-043	
(See <b>HEALTH, DEPARTMENT OF</b> )				Domestic violence victim shelters	<b>PREP</b>	<b>99-17-057</b>	
<b>SHORELINE COMMUNITY COLLEGE</b>				Economic services administration	<b>PREP</b>	<b>99-17-058</b>	
Meetings	MISC	99-01-126		assistance programs, division of			
	MISC	99-07-001		errors and omissions corrected	PREP	99-07-105	
	MISC	99-12-050			PROP	99-12-116	
<b>SKAGIT VALLEY COLLEGE</b>					PROP	99-12-117	
Meetings	MISC	99-02-044			PROP	99-12-118	
	MISC	99-07-091			PROP	99-12-119	
	MISC	99-12-011			PROP	99-12-120	
	MISC	99-13-141			PROP	99-12-121	
					PROP	99-12-121	
					PROP	99-13-192	
					PERM	99-16-024	
					<b>PERM</b>	<b>99-17-025</b>	
					PROP	99-02-014	
				eligibility	PREP	99-01-113	
				emergency assistance	PROP	99-11-073	
					EMER	99-14-042	
					PERM	99-14-046	
					PREP	99-08-120	
				exceptions and complaints	PREP	99-04-055	
				general assistance-unemployable	PROP	99-01-029	
				need standards	PERM	99-04-056	
					PERM	99-02-039	
					PREP	99-03-040	
				payment of grants	PROP	99-06-098	
				resource	PROP	99-06-099	
					PERM	99-09-053	
					PERM	99-09-054	
				SSI program			
				standards of assistance	PROP	99-01-027	
					EMER	99-01-028	
					PERM	99-04-103	
				SSI supplemental security income			
				payment standard	PREP	99-05-045	
					PROP	99-15-078	
				Food assistance program			
				eligibility	PROP	99-01-111	
					EMER	99-01-112	
					PERM	99-05-074	
					PERM	99-01-058	
				noncitizens, eligibility	PERM	99-01-069	
				utility allowances	EMER	99-05-046	
					PROP	99-06-088	
					PERM	99-09-055	
				General assistance			
				pregnant woman	PROP	99-04-102	
					PROP	99-10-105	
					MISC	99-15-021	
				Human research subjects			
				Juvenile rehabilitation administration			
				parole revocation	PERM	99-03-077	
				Management services administration			
				adjudicative proceedings	EXAD	99-11-086	
					PERM	99-16-023	
					PROP	99-03-076	
				declaratory orders	PERM	99-06-044	
					PREP	99-09-086	
				language interpretation services and translations	PREP	99-07-104	
				public records disclosure	PROP	99-11-085	
					PERM	99-15-065	
				Medical assistance administration			
				acute physical medicine and rehabilitation	PROP	99-14-038	
					<b>PERM</b>	<b>99-17-111</b>	
				adult day health services	MISC	99-16-096	
				AIDS			
				community aids service alternative (CASA)	PREP	99-13-190	
				alien emergency medical services	PREP	99-10-047	
				aliens	EXRE	99-15-042	
				children, eligibility	PROP	99-13-126	
					<b>PERM</b>	<b>99-17-023</b>	
					PREP	99-05-044	
				clear writing principles			
				community options program entry system			
				(COPES)	PROP	99-13-096	
				community spouse needs and family needs			
				allowances	EMER	99-01-168	
					PROP	99-06-100	
					EMER	99-08-016	

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

dental services	PERM 99-11-017	Mental health division	
	PROP 99-01-169	criminally insane	PREP 99-14-065
	PERM 99-07-023	Occupational therapists	
eligibility	MISC 99-16-095	bill instruction	MISC 99-15-074
	PROP 99-02-015	Rules agenda	MISC 99-04-026
	PROP 99-07-137		MISC 99-15-077
estate recovery	PERM 99-10-064	Temporary assistance for needy families (TANF)	
	PROP 99-07-025	community jobs wage subsidy program	EMER 99-02-038
	PERM 99-11-076	five year limit	PROP 99-04-102
federal poverty level	PREP 99-07-103		PERM 99-08-050
	EMER 99-08-001	pregnant women	PROP 99-10-105
	PROP 99-15-044		PERM 99-14-045
	EMER 99-15-045	Vocational rehabilitation services	PREP 99-06-081
home health services	PROP 99-11-053		PROP 99-12-030
	PERM 99-16-069	WorkFirst	
	MISC 99-17-011	child care	PREP 99-17-024
hospital services	PROP 99-01-170	participation requirements	PROP 99-01-115
	PROP 99-05-073		PROP 99-05-071
	PERM 99-06-045		PROP 99-05-072
	PERM 99-06-046		PERM 99-07-024
	PERM 99-09-007		PERM 99-08-051
definitions	PREP 99-06-087		PERM 99-10-027
	PROP 99-09-088		PROP 99-14-078
	PERM 99-14-039	pregnant women and parents of infants	PREP 99-14-024
outpatient payment	PREP 99-06-086		EMER 99-14-041
	PROP 99-09-089	reemploy Washington workers program	PROP 99-11-072
	PERM 99-14-028		PERM 99-14-044
payment method - state only programs	PROP 99-09-090		PREP 99-16-097
	PERM 99-14-025		PROP 99-10-028
	PERM 99-14-026	support services	PERM 99-14-043
	PERM 99-14-040		
rates	PREP 99-06-084	<b>SOUTH PUGET SOUND COMMUNITY COLLEGE</b>	
	PREP 99-06-085	General provisions	PREP 99-06-032
	PROP 99-09-091	Meetings	MISC 99-01-073
	PROP 99-11-050		MISC 99-13-088
	PROP 99-11-052		MISC 99-15-088
	PROP 99-13-050	<b>SOUTHWEST AIR POLLUTION CONTROL AUTHORITY</b>	
	PERM 99-14-027	Sources	PERM 99-07-027
	PERM 99-16-070		PERM 99-07-028
	<b>PROP 99-17-110</b>		PERM 99-07-029
infusion, parenteral, and enteral therapies	PREP 99-03-104		PERM 99-07-030
interpreter services	MISC 99-15-041		PERM 99-07-032
interview requirements	PROP 99-08-015		
	PERM 99-11-075	<b>SPOKANE, COMMUNITY COLLEGES OF</b>	
long-term care		Appointing authority, delegation	PROP 99-01-132
eligibility	PROP 99-16-067		PROP 99-05-040
managed care	PREP 99-01-167		PERM 99-10-012
maternity-related services		Meetings	MISC 99-04-024
home birth provider	PREP 99-06-043		
medical equipment, supplies, prosthetics, and orthotics	PROP 99-08-080	<b>SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY</b>	
medical services request	PREP 99-08-041	Burning restrictions	PROP 99-01-063
medically needy, eligibility	EMER 99-01-162		PERM 99-03-046
	PREP 99-01-163	Fees	PROP 99-15-064
	PROP 99-08-118	Oxygenated gasoline	PROP 99-11-046
	EMER 99-08-119		PERM 99-14-070
	PERM 99-11-054	Roads, particulate matter control	PERM 99-03-030
	EXRE 99-15-042		
noncovered service for clients	PREP 99-08-040	<b>SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE</b>	
occupational therapy	PREP 99-03-075	Meetings	MISC 99-03-020
	PROP 99-11-071		
	PERM 99-16-068	<b>SPORTS, PROFESSIONAL</b>	
outpatient services	PREP 99-12-071	(See LICENSING, DEPARTMENT OF)	
oxygen and respiratory equipment and services	PROP 99-08-122	<b>SUPREME COURT, STATE</b>	
	PERM 99-13-049	Administrative rules	MISC 99-11-019
payment method	PREP 99-06-083	Admission to practice	MISC 99-13-089
	PROP 99-09-087	Appellate procedure	MISC 99-13-021
	PROP 99-11-060	Attorney fees and expenses	MISC 99-01-015
	PROP 99-13-125	Capital cases	
physical therapy	PREP 99-11-084	filing of briefs	MISC 99-05-029
physician's related services fees	MISC 99-15-075	stay of execution	MISC 99-07-010
prescription drug program billing instruction	MISC 99-04-025	Courts of limited jurisdiction procedures	MISC 99-13-024
private duty nursing services	MISC 99-16-092		MISC 99-13-025
speech/audiology services	PROP 99-11-074	Deferred prosecution	MISC 99-14-071
	MISC 99-15-073	Dispute resolution with clients	MISC 99-13-091
	PERM 99-16-071	House counsel	MISC 99-05-028
SSI eligible clients		Immunity	MISC 99-13-090
premium payments	MISC 99-16-094	Judicial information system committee	
transportation services	PREP 99-13-191	membership	MISC 99-01-016
wheelchairs and durable medical equipment	MISC 99-16-093		

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Juvenile court procedures	MISC	99-13-023	<b>TRANSPORTATION IMPROVEMENT BOARD</b>	
Lawyers' fund for client protection	MISC	99-11-020	Meetings	MISC 99-03-023
Motions, determination	MISC	99-01-015		MISC 99-07-011
Suspension from practice	MISC	99-13-022		MISC 99-08-076
<b>TACOMA COMMUNITY COLLEGE</b>				MISC 99-11-023
Athletic participation, loss of eligibility	PREP	99-16-109		MISC 99-13-040
Grievance procedure	PREP	99-16-108		MISC 99-14-069
Meetings	MISC	99-01-008	Rules update	MISC 99-15-004
	MISC	99-09-019		PROP 99-03-089
Student rights and responsibilities	PREP	99-16-107	Transportation Equity Act, implementation	PERM 99-08-021
				PROP 99-03-088
				PERM 99-08-020
<b>TAX APPEALS, BOARD OF</b>			<b>TREASURER, OFFICE OF THE STATE</b>	
Meetings	MISC	99-01-060	Loans	
Public records	PROP	99-08-091	interest rate	PREP 99-16-021
	PERM	99-13-098	Public depositaries	PROP 99-16-034
			Rules Coordinator	MISC 99-16-026
<b>TAXATION</b>			Securities	
(See <b>REVENUE, DEPARTMENT OF</b> )			collateral for payment	PERM 99-03-004
<b>THE EVERGREEN STATE COLLEGE</b>			<b>TRUCKS AND TRUCKING</b>	
Disciplinary records of student	PREP	99-05-056	(See <b>FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD; UTILITIES AND TRANSPORTATION COMMISSION</b> )	
	PROP	99-08-030		
	PERM	99-12-024	<b>TRUST COMPANIES</b>	
Parking fees	<b>PREP</b>	<b>99-17-036</b>	(See <b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b> )	
Shoplifting policy	PREP	99-05-065	<b>UNEMPLOYMENT COMPENSATION</b>	
			(See <b>EMPLOYMENT SECURITY DEPARTMENT</b> )	
<b>TOXICOLOGIST, STATE</b>			<b>UNIVERSITY OF WASHINGTON</b>	
Breath alcohol screening test administration	PROP	99-01-011	Meetings	MISC 99-01-080
	PROP	99-01-012		MISC 99-04-062
	PERM	99-06-047		<b>MISC 99-17-007</b>
	PERM	99-06-048	Rules agenda	MISC 99-03-016
	EMER	99-10-018		MISC 99-14-063
	EXAD	99-10-019	Student records disclosure	PREP 99-01-075
	<b>PROP</b>	<b>99-17-063</b>		PROP 99-08-056
	EMER	99-17-064	Thomas Burke Museum	PERM 99-12-110
				EXRE 99-01-131
				PERM 99-06-033
<b>TRAFFIC SAFETY COMMISSION</b>			<b>USURY RATES</b>	
Meetings	MISC	99-01-035	(See inside front cover)	
<b>TRANSPORTATION, DEPARTMENT OF</b>			<b>UTILITIES AND TRANSPORTATION COMMISSION</b>	
Central and field organization chain of command	EXAD	99-02-065	(See also <b>FREIGHT MOBILITY INVESTMENT BOARD</b> )	
	PERM	99-07-013	Adoption by reference rules, update	EXAD 99-14-079
City/county project coordination	PERM	99-01-121	Budgets	
Escort vehicle requirements	EXRE	99-04-058	rules review	PREP 99-09-028
	PERM	99-07-098		<b>PROP 99-17-044</b>
Farm implements, oversize	EMER	99-10-004	Electric companies	PREP 99-08-105
	PREP	99-10-020	Gas companies	PREP 99-08-052
	PROP	99-14-047	Low-level radioactive waste disposal rates	PERM 99-05-016
Ferries			Motor carriers	
contractor prequalification	PERM	99-03-025	household goods	PERM 99-01-077
fare schedule	PROP	99-05-035		PERM 99-08-026
	PERM	99-08-066	Pipeline safety	PROP 99-08-085
preferential loading	PERM	99-07-059		PERM 99-02-036
Highway access management			Practice and procedure	PERM 99-02-037
access control	PERM	99-06-035	Property transfers	PERM 99-05-031
limited access hearings	PREP	99-10-029		PROP 99-03-074
limited access highways	PREP	99-10-030	Railroad company operations	PERM 99-08-055
permits	PERM	99-06-034		PREP 99-08-053
Highway advertising control	<b>PREP</b>	<b>99-17-079</b>	Rules agenda	PROP 99-15-083
Oversize and overweight permits			Securities, liens, affiliated interests, refunding of notes, and leases	MISC 99-14-037
escort vehicles	PROP	99-05-006		PROP 99-03-073
	PERM	99-08-025	Solid waste collection companies	PERM 99-08-054
	EMER	99-10-004	Telecommunications	PREP 99-08-012
	PREP	99-10-020	carrier-to-carrier service standards	
Rail fixed guideway systems			colocation of competitive local exchange company facilities	PREP 99-11-068
safety program	PREP	99-11-026	customer proprietary network information	PREP 99-11-069
	PROP	99-15-011		PERM 99-05-015
Rules agenda	MISC	99-01-053	registration	PROP 99-07-107
	MISC	99-13-123		PERM 99-11-070
State Environmental Policy Act review and update	PREP	99-04-042	Telecom Act services	PROP 99-07-106
Transportation building address	EXAD	99-06-004	fees	PERM 99-13-097
	PERM	99-11-007		PREP 99-15-016
Utility franchises and permits	PROP	99-08-082		
<b>TRANSPORTATION COMMISSION</b>				
Meetings	MISC	99-11-081		

## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Telephones					
pay phone and operator services providers, level of service	PERM	99-02-020			
prepaid calling card services, standards rules review	PERM	99-10-013			
	PREP	99-09-027			
	PROP	99-13-095			
subscriber rates, calling areas	PERM	99-01-076			
Water companies					
investor owned companies	PROP	99-07-053			
	PROP	99-12-112			
<b>VETERANS AFFAIRS, DEPARTMENT OF</b>					
Rules coordinator	MISC	99-01-130			
<b>VETERINARY BOARD OF GOVERNORS</b> (See <b>HEALTH, DEPARTMENT OF</b> )					
<b>VOLUNTEER FIRE FIGHTERS, BOARD FOR</b>					
Pensions					
actuarial tables	PREP	99-13-170			
<b>WALLA WALLA COMMUNITY COLLEGE</b>					
Meetings	MISC	99-01-034			
	MISC	99-01-062			
	MISC	99-03-070			
	MISC	99-06-016			
	MISC	99-09-046			
	MISC	99-14-030			
<b>WASHINGTON STATE LIBRARY</b>					
Library commission meetings	MISC	99-01-078			
	MISC	99-04-100			
	MISC	99-07-022			
	MISC	99-11-010			
	MISC	99-13-161			
	MISC	99-14-033			
	MISC	99-16-011			
Library council of Washington meetings	MISC	99-15-039			
	MISC	99-15-087			
Rules coordinator	MISC	99-05-019			
	MISC	99-11-011			
<b>WASHINGTON STATE PATROL</b>					
Background checks	PROP	99-03-080			
	PROP	99-03-081			
	PERM	99-07-050			
	PERM	99-07-051			
Buses					
warning device exemption	PREP	99-09-021			
	PROP	99-13-133			
Fire protection policy board meetings	MISC	99-05-066			
Motor vehicles					
flashing lamps	PERM	99-02-045			
headlamps					
blue tint	PREP	99-09-049			
	PROP	99-13-135			
ignition interlock breath alcohol devices impounds	PERM	99-01-156			
	PREP	99-09-048			
	PROP	99-13-134			
seized vehicles, disposition	<b>PREP</b>	<b>99-17-087</b>			
tire chain use	EXAD	99-01-084			
	PERM	99-06-023			
<b>WASHINGTON STATE UNIVERSITY</b>					
Meetings	MISC	99-09-005			
<b>WESTERN WASHINGTON UNIVERSITY</b>					
Bicycle traffic and parking	PROP	99-03-011			
	EMER	99-03-012			
	PERM	99-07-089			
Organization	PREP	99-08-044			
Rules coordinator	MISC	99-02-067			
address	MISC	99-08-043			
Skateboards and in-line skates	PROP	99-03-011			
	EMER	99-03-012			
<b>WHATCOM COMMUNITY COLLEGE</b>					
Meetings	MISC	99-01-127			
	MISC	99-13-154			
<b>WILDLIFE</b> (See <b>FISH AND WILDLIFE, DEPARTMENT OF</b> )					
<b>WORKER HOUSING, TEMPORARY</b> (See <b>HEALTH, DEPARTMENT OF; LABOR AND INDUSTRIES, DEPARTMENT OF</b> )					
<b>WORKERS' COMPENSATION</b> (See <b>LABOR AND INDUSTRIES, DEPARTMENT OF</b> )					
<b>WORKFIRST</b> (See <b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b> )					
<b>WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD</b>					
Meetings	MISC	99-04-101			
	MISC	99-06-095			
	MISC	99-09-033			
	MISC	99-09-042			
	MISC	99-11-080			
	MISC	99-16-002			
	<b>MISC</b>	<b>99-17-035</b>			
<b>YAKIMA REGIONAL CLEAN AIR AUTHORITY</b>					
Compliance and enforcement	PROP	99-01-033			
Permits	PROP	99-01-033			
	PROP	99-06-017			
Public hearings	PROP	99-03-049			
	PROP	99-06-017			
<b>YAKIMA VALLEY COMMUNITY COLLEGE</b>					
Meetings	MISC	99-07-048			
Public records	PREP	99-05-041			
Student rights and responsibilities	PROP	99-08-019			
	PERM	99-13-140			

