

Washington State Register

February 16, 2000

OLYMPIA, WASHINGTON

ISSUE 00-04



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filed not later than February 2, 2000

CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

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

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

STATE MAXIMUM INTEREST RATE

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

The maximum allowable interest rate applicable for the month of February 2000 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

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

John G. Schultz
Chair, Statute Law Committee

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following nine sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Intent that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **EXPEDITED REPEAL**-includes the Preproposal Statement of Inquiry that lists rules being repealed using the expedited repeal process. Expedited repeals are not consistently filed and may not appear in every issue of the register.
- (c) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (d) **EXPEDITED ADOPTION**-includes the full text of rules being changed using the expedited adoption process. Expedited adoptions are not consistently filed and may not appear in every issue of the Register.
- (e) **PERMANENT**-includes the full text of permanently adopted rules.
- (f) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (g) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (h) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (i) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

1999 - 2000

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue Number	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³	Expedited Adoption ⁴
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS ² or 10 p. max. Non-OTS	Count 20 days from -	For hearing on or after	First Agency Adoption Date
For Inclusion in -	File no later than 12:00 noon -					
99 - 13	May 26, 99	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 27, 99	Aug 24, 99
99 - 14	Jun 9, 99	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 10, 99	Sep 8, 99
99 - 15	Jun 23, 99	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 24, 99	Sep 21, 99
99 - 16	Jul 7, 99	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 7, 99	Oct 5, 99
99 - 17	Jul 21, 99	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 21, 99	Oct 19, 99
99 - 18	Aug 4, 99	Aug 18, 99	Sep 1, 99	Sep 15, 99	Oct 5, 99	Nov 2, 99
99 - 19	Aug 25, 99	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 26, 99	Nov 23, 99
99 - 20	Sep 8, 99	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 9, 99	Dec 7, 99
99 - 21	Sep 22, 99	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 23, 99	Dec 21, 99
99 - 22	Oct 6, 99	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 7, 99	Jan 4, 00
99 - 23	Oct 20, 99	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 21, 99	Jan 19, 00
99 - 24	Nov 3, 99	Nov 17, 99	Dec 1, 99	Dec 15, 99	Jan 4, 00	Feb 1, 00
00 - 01	Nov 24, 99	Dec 8, 99	Dec 22, 99	Jan 5, 00	Jan 25, 00	Feb 23, 00
00 - 02	Dec 8, 99	Dec 22, 99	Jan 5, 00	Jan 19, 00	Feb 8, 00	Mar 7, 00
00 - 03	Dec 22, 99	Jan 5, 00	Jan 19, 00	Feb 2, 00	Feb 22, 00	Mar 21, 00
00 - 04	Jan 5, 00	Jan 19, 00	Feb 2, 00	Feb 16, 00	Mar 7, 00	Apr 4, 00
00 - 05	Jan 19, 00	Feb 2, 00	Feb 16, 00	Mar 1, 00	Mar 21, 00	Apr 18, 00
00 - 06	Feb 2, 00	Feb 16, 00	Mar 1, 00	Mar 15, 00	Apr 4, 00	May 2, 00
00 - 07	Feb 23, 00	Mar 8, 00	Mar 22, 00	Apr 5, 00	Apr 25, 00	May 23, 00
00 - 08	Mar 8, 00	Mar 22, 00	Apr 5, 00	Apr 19, 00	May 9, 00	Jun 6, 00
00 - 09	Mar 22, 00	Apr 5, 00	Apr 19, 00	May 3, 00	May 23, 00	Jun 20, 00
00 - 10	Apr 5, 00	Apr 19, 00	May 3, 00	May 17, 00	Jun 6, 00	Jul 5, 00
00 - 11	Apr 26, 00	May 10, 00	May 24, 00	Jun 7, 00	Jun 27, 00	Jul 25, 00
00 - 12	May 10, 00	May 24, 00	Jun 7, 00	Jun 21, 00	Jul 11, 00	Aug 8, 00
00 - 13	May 24, 00	Jun 7, 00	Jun 21, 00	Jul 5, 00	Jul 25, 00	Aug 22, 00
00 - 14	Jun 7, 00	Jun 21, 00	Jul 5, 00	Jul 19, 00	Aug 8, 00	Sep 6, 00
00 - 15	Jun 21, 00	Jul 5, 00	Jul 19, 00	Aug 2, 00	Aug 22, 00	Sep 19, 00
00 - 16	Jul 5, 00	Jul 19, 00	Aug 2, 00	Aug 16, 00	Sep 5, 00	Oct 3, 00
00 - 17	Jul 26, 00	Aug 9, 00	Aug 23, 00	Sep 6, 00	Sep 26, 00	Oct 24, 00
00 - 18	Aug 9, 00	Aug 23, 00	Sep 6, 00	Sep 20, 00	Oct 10, 00	Nov 7, 00
00 - 19	Aug 23, 00	Sep 6, 00	Sep 20, 00	Oct 4, 00	Oct 24, 00	Nov 21, 00
00 - 20	Sep 6, 00	Sep 20, 00	Oct 4, 00	Oct 18, 00	Nov 7, 00	Dec 5, 00
00 - 21	Sep 20, 00	Oct 4, 00	Oct 18, 00	Nov 1, 00	Nov 21, 00	Dec 19, 00
00 - 22	Oct 4, 00	Oct 18, 00	Nov 1, 00	Nov 15, 00	Dec 5, 00	Jan 3, 01
00 - 23	Oct 25, 00	Nov 8, 00	Nov 22, 00	Dec 6, 00	Dec 26, 00	Jan 23, 01
00 - 24	Nov 8, 00	Nov 22, 00	Dec 6, 00	Dec 20, 00	Jan 9, 01	Feb 6, 01

¹ 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.

² 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.

³ 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.

⁴ 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 and 1.12.040.

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;

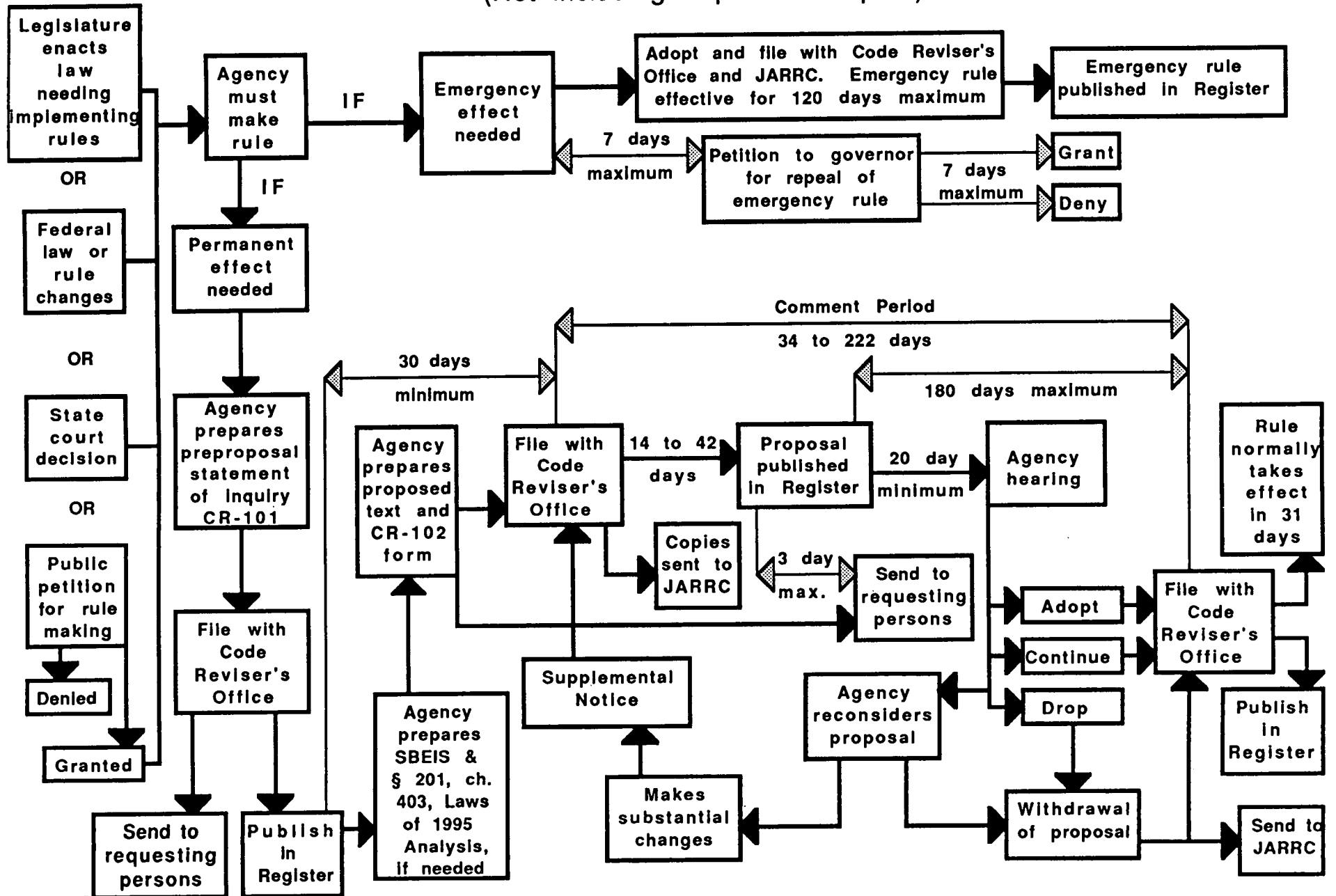
The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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 00-04-002**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed January 19, 2000, 2:46 p.m.]

Subject of Possible Rule Making: Chapter 296-155 WAC, Safety standards for construction work.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The Department of Labor and Industries received a letter from Occupational Safety and Health Administration (OSHA), dated July 27, 1999, indicating that Washington's safety rules relating to fall protection for construction work are "not at least as effective as" OSHA and therefore we must change to become at least as effective.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: No other state or federal agencies (other than OSHA) are known that regulate this subject.

Process for Developing New Rule: The department must adopt rules identical to or at-least-as-effective-as OSHA rules as required by the OSHA/WISHA state plan agreement. Parties interested in the formulation of these rules for proposal may contact the individuals listed below. The public may also participate by commenting after amendments are proposed by providing written or oral comments.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Cindy Ireland, Project Manager, phone (360) 902-5522, fax (360) 902-5529, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620.

January 19, 2000

Gary Moore
Director**WSR 00-04-016****PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed January 24, 2000, 10:21 a.m.]

Subject of Possible Rule Making: Commercial fishing rules—Scallop 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: The commercial scallop fishery has allowed use of a shrimp trawl fishery license to fish for scallops in Puget Sound. This license is no longer available for this fishery, as Puget Sound shrimp have become a limited entry fishery. A complete review of the scallop fishery rules is needed.

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, Fish Program Assistant Director, 600 Capitol Way, Olympia, WA 98501-1091, phone (360) 902-2651. Contact by July 3, 2000, expected proposal filing July 5, 2000.

January 24, 2000

Evan Jacoby

Rules Coordinator

WSR 00-04-020**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 24, 2000, 1:46 p.m.]

Subject of Possible Rule Making: Rules relating to the use of pesticides on pollen shedding corn, WAC 16-230-082 through 16-230-088.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.58 RCW, the Washington Pesticide Control Act and chapter 17.21 RCW, the Washington Pesticide Application Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As new and existing insecticides were developed and use on corn, the Washington State Department of Agriculture (WSDA) witnessed numerous mortalities of pollinating insects. As a result of these mortalities WSDA recognized the need to provide greater protection to pollinating insects, therefore these rules were created. The department has conducted a review of the above-mentioned rules under the provisions of the Governor's Executive Order 97-02, and has determined the rules are necessary to protect/safeguard the health, welfare, and safety of the people and the environment including pollinating insects in Washington.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review will be shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its decision to retain the rules. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, or fax (360) 902-2093, or e-mail adminregs@agr.wa.gov. Comments should be made by 5:00 p.m., March 17, 2000.

For a copy of the review report contact Laurie Mauer- man, Washington State Department of Agriculture, Pesticide Management Division, P.O. Box 42560, Olympia, WA 98504-2560.

January 24, 2000

Bob Arrington

Assistant Director

WSR 00-04-021**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 24, 2000, 1:48 p.m.]

Subject of Possible Rule Making: Rules relating to the use of pesticides on blossoming alfalfa, clover and mint, WAC 16-230-010 through 16-230-079.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.58 RCW, the Washington Pesticide Control Act and chapter 17.21 RCW, the Washington Pesticide Application Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As new and existing insecticides were developed and used on alfalfa clover and mint, the Washington State Department of Agriculture (WSDA) witnessed numerous mortalities of pollinating insects. As a result of these mortalities WSDA recognized the need to provide greater protection to pollinating insects, therefore these rules were created. The department has conducted a review of the above-mentioned rules under the provisions of the Governor's Executive Order 97-02, and has determined the rules are necessary to protect/safeguard the health, welfare, and safety of the people and the environment including pollinating insects in Washington.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review will be shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its decision to retain the rules. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, or fax (360) 902-2093, or e-mail adminregs@agr.wa.gov. Comments should be made by 5:00 p.m., March 17, 2000.

For a copy of the review report contact Laurie Mauer-
man, Washington State Department of Agriculture, Pesticide
Management Division, P.O. Box 42560, Olympia, WA
98504-2560.

January 24, 2000
Bob Arrington
Assistant Director

WSR 00-04-022**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF AGRICULTURE**

[Filed January 24, 2000, 1:50 p.m.]

Subject of Possible Rule Making: Rules relating to the use of microencapsulated methyl parathion, WAC 16-230-250 through 16-230-290.

Statutes Authorizing the Agency to Adopt Rules on this Subject: Chapter 15.58 RCW, the Washington Pesticide Control Act and chapter 17.21 RCW, the Washington Pesticide Application Act.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: As new and existing insecticides were developed and used on tree fruits and other crops, the Washington State Department of Agriculture (WSDA) witnessed numerous mortalities of pollinating insects. As a result of these mortalities WSDA recognized the need to provide greater protection to pollinating insects, therefore these rules were created. The department has conducted a review of the above-mentioned rules under the provisions of the Governor's Executive Order 97-02, and has determined the rules are necessary to protect/safeguard the health, welfare, and safety of the people and the environment including pollinating insects in Washington.

Process for Developing New Rule: A rules review was conducted in accordance with the Governor's Executive Order 97-02. Results of this review will be shared with representatives of the rule stakeholders for input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The department is seeking input on its decision to retain the rules. You may comment by writing to Washington State Department of Agriculture, Administrative Regulations Unit, P.O. Box 42560, Olympia, WA 98504-2560, or fax (360) 902-2093, or e-mail adminregs@agr.wa.gov. Comments should be made by 5:00 p.m., March 17, 2000.

For a copy of the review report contact Laurie Mauer-
man, Washington State Department of Agriculture, Pesticide
Management Division, P.O. Box 42560, Olympia, WA
98504-2560.

January 24, 2000
Bob Arrington
Assistant Director

WSR 00-04-027**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF REVENUE**

[Filed January 24, 2000, 3:34 p.m.]

Subject of Possible Rule Making: WAC 458-20-13501
Timber harvest operations.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Information regarding the tax-reporting responsibilities of persons engaging in activities associated with timber harvest operations is currently found in multiple documents (WACs and ETAs) issued by the Department of Revenue. The department is considering adopting a new rule to incorporate this tax-reporting information into a single document. This will allow the department to address the broad range of issues pertinent to timber harvest operations in a more comprehensive document, rather than relying on a mix of rules and advisories.

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

Process for Developing New Rule: Modified negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments may be submitted by mail, fax, or at the public meeting, which will be held in conjunction with the public hearing for WAC 458-20-135, 458-20-136, and 458-20-13601. Oral comments will be accepted at the public meeting. Written comments may be directed to Alan R. Lynn, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail alanl@dor.wa.gov.

Location and Date of Public Meeting: March 8, 2000, at 9:30 a.m., General Administration Building, 2nd Floor Conference Room #207, 210 West 11th and Columbia Streets, Olympia, WA.

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.

January 24, 2000

Claire Hesselholt

Rules Manager

Legislation and Policy Division

WSR 00-04-036

PREPROPOSAL STATEMENT OF INQUIRY

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 25, 2000, 1:37 p.m.]

Subject of Possible Rule Making: WAC 388-200-1300 Necessary supplemental accommodation services (NSA), WAC 388-200-1350 Dispute resolution for clients needing supplemental accommodation, and other NSA-related WACs.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: WAC 388-200-1300 needs to be modified to reflect the change in method of issuing assistance from paper warrants to electronic benefits. The language of WAC 388-200-1300, 388-200-1350, and other NSA-related WACs needs to be clarified and simplified to meet the mandates of 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: A team of program experts will develop a review draft, which we will send to all interested parties for review and comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Doug Sevin, Program Manager, Department of Social and Health Services, Division of Assistance Programs, 1009 College Street S.E., Lacey, WA, (mail-

ing address: P.O. Box 45470, Olympia, WA, 98504-5470), phone (360) 413-3097, e-mail sevindj@dshs.wa.gov.

January 25, 2000

Marie Myerchin-Redifer
Manager

WSR 00-04-048

PREPROPOSAL STATEMENT OF INQUIRY

CRIMINAL JUSTICE TRAINING COMMISSION

[Filed January 27, 2000, 2:58 p.m.]

Subject of Possible Rule Making: Chapter 139-01 WAC, General administration, chapter 139-10 WAC, Corrections, chapter 139-05 WAC, Law enforcement, and chapter 139-25 WAC, Career level certification.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.101.080 Commission powers and duties, to adopt any rules and regulations as it may deem necessary.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: In compliance with the governor's executive order requiring review of agency rules for clarity, update and housekeeping.

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 Sharon M. Tolton, Deputy Director, (206) 439-3740 ext. 245; or Carri Brezonick, Special Assistant to the Director, (206) 436-3740 ext. 241; fax (206) 436-3860.

Commission Meeting/Hearing on March 8, 2000, at 10:00 a.m., Criminal Justice Training Commission, Training Center, 19010 1st Avenue South, Seattle, WA 98148, (206) 439-3740 ext. 245/272.

January 27, 2000

Sharon M. Tolton

Deputy Director

WSR 00-04-060

WITHDRAWAL OF

PREPROPOSAL STATEMENT OF INQUIRY

BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

[Filed January 28, 2000, 2:14 p.m.]

I had filed a CR-101 on the proposed rules related to obtaining a practice permit for on-site wastewater treatment designers as WSR 99-20-145 on October 6, 1999.

I filed a second CR-101 as WSR 00-01-202 on December 22, 1999, on the same proposed rules. I request that this second filing be withdrawn so that we can move forward and file a CR-102 on the proposed practice permit rules.

Filing a CR-102 now is well after the minimum required wait time relative to the October 6 filing. That wait time has

not yet expired relative to the December 22 filing. Filing our CR-102 relative to the October 6 CR-101 filing allows us to adjust our hearing schedule to fit a regularly scheduled meeting of the engineer's board.

Rick Notestine

WSR 00-04-061

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF RETIREMENT SYSTEMS**

[Filed January 28, 2000, 2:18 p.m.]

Subject of Possible Rule Making: Department of Retirement Systems petitions and appeals processes under chapters 415-04 and 415-08 WAC, respectively.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Clarify petitions and appeals process rules in compliance 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: Because the department already has existing rules on this subject in place and the amendments do not change such subject matter, the department did not seek input on the preliminary draft prior to filing the CR-101. Copies of the draft rule will be circulated to interested parties for comment. Interested parties include those persons known to the department, such as state employees, and any other person who requests a copy and/or opportunity to comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Elyette M. Weinstein, Rules Coordinator, Legal/Legislative Services, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, phone (360) 664-7307, fax (360) 753-3166.

January 27, 2000
Elyette M. Weinstein
Rules Coordinator

WSR 00-04-062

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed January 28, 2000, 2:19 p.m.]

Subject of Possible Rule Making: Amend rules chapter 415-10 WAC involving repurchased of service credit under RCW 41.50.165 to comply with new statutes, chapters 41.34 and 41.35 RCW and Executive Order 97-02.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 41.50.050.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Amend rules to comply with

chapters 41.34 and 41.35 RCW which were passed after rules were adopted; and conform to clear rule-writing principles.

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

Process for Developing New Rule: Because the department already has existing rules on this subject in place, the department did not seek input on the preliminary draft prior to filing the CR-101. Copies of the draft rules will be circulated to interested parties for comment. Interested parties include those persons known to the department, such as state employees, their representatives and any other person who requests a copy and/or opportunity to comment.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Jeff Wickman, SERS, (360) 664-7303; Margaret Wimmer, TRS Plan Administrator, (360) 664-7044; Elyette M. Weinstein, Rules Coordinator, phone (360) 664-7307; Legal/Legislative Affairs, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, fax (360) 664-3618.

January 26, 2000
Elyette M. Weinstein
Rules Coordinator

WSR 00-04-068

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION**

[Filed January 31, 2000, 1:09 p.m.]

Subject of Possible Rule Making: Amending WAC 468-38-070 Maximums for special permits—Nonreducible.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 46.44.090.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Add additional clarifying language regarding overweight loads, allowable vehicle configuration, and loads with multiple pieces.

Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies: The WAC is enforced by the Washington State Patrol.

Process for Developing New Rule: Negotiated rule making, amendment is based on a demonstrated need for clarification.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Barry Diseth, Motor Carrier Services, P.O. Box 47367, Olympia, WA 98504-7367, fax (360) 664-9440.

January 28, 2000
Gerald E. Smith
Deputy Secretary, Operations

WSR 00-04-070
PREPROPOSAL STATEMENT OF INQUIRY
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
 [Filed January 31, 2000, 1:52 p.m.]

Subject of Possible Rule Making: Proposed changes to chapters 391-08, 391-45 and 391-95 WAC concerning complaints charging unfair labor practices, preliminary rulings, deficiency notices, and answers. Agency responses to new model rules of procedure including notices of appearance and subpoenas.

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

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Pursuant to Executive Order 97-02, proposed changes will set forth standards and limitations for answers and amendments to unfair labor practice complaints, and implement reorganization allowing executive director or designated staff member to issue deficiency notices, preliminary rulings, and orders on deferral to arbitration.

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

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Mark S. Downing, Rules Coordinator, P.O. Box 40919, Olympia, WA 98504-0919, phone (360) 753-2955, fax (360) 586-7091, e-mail perc@olywa.net. Rules Workshop, Annual Collective Bargaining Conference, on March 8, 2000, at 2:25 p.m., Seattle Center, Northwest Rooms, Seattle, Washington.

January 31, 2000
 Marvin L. Schurke
 Executive Director

WSR 00-04-074
PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed February 1, 2000, 8:51 a.m.]

Subject of Possible Rule Making: Revising Division of Credit Unions' rules on participation in commercial business activities, chapter 208-440 WAC.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 31.12.516(2), 43.320.040.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: 1. The existing rules are outdated and overly restrictive. Credit unions should have more freedom in their prudent judgment to enter into commercial arrangements with third parties to serve their members.

2. The agency intends to review its credit union rules through this and other rule-making proceedings, in accordance with Governor Locke's Executive Order 97-02 (EO 97-02) and the agency's regulatory improvement plan.

EO 97-02 requires agencies to review their rules using the following criteria:

A. Need. Is the rule necessary to comply with the statutes that authorize it? Is the rule obsolete, duplicative, or ambiguous to a degree that warrants repeal or revision? Have laws or other circumstances changed so that the rule should be amended or repealed? Is the rule necessary to protect or safeguard the health, welfare, or safety of Washington's citizens?

B. Effectiveness and Efficiency. Is the rule providing the results that it was originally designed to achieve in a reasonable manner? Are there regulatory alternatives or new technologies that could more effectively or efficiently achieve the same objectives?

C. Clarity. Is the rule written and organized in a clear and concise manner so that it can be readily understood by those to whom it applies?

D. Intent and Statutory Authority. Is the rule consistent with the legislative intent of the statutes that authorize it? Is the rule based upon sufficient statutory authority? Is there a need to develop a more specific legislative authorization in order to protect the health, safety, and welfare of Washington's citizens?

E. Coordination. Could additional consultation and coordination with other governmental jurisdictions and state agencies with similar regulatory authority eliminate or reduce duplication and inconsistency?

F. Cost. Have qualitative and quantitative benefits of the rule been considered in relation to its cost?

G. Fairness. Does the rule result in equitable treatment of those required to comply with it? Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community? Should it be strengthened to provide additional protection?

The agency is interested in your comments on the revisions to chapter 208-440 WAC developed in this rule-making proceeding in light of these criteria.

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 division solicits input from credit unions and related parties. A preliminary draft of the rule follows.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Parker Cann, Director of Credit Unions, P.O. Box 41200, Olympia, WA 98504-1200, phone (360) 902-8778, fax (360) 704-6978, e-mail pcann@dfi.wa.gov.

January 31, 2000
 John L. Bley
 Director

Chapter 208-440 WAC

((RULES ON)) CREDIT UNION PARTICIPATION IN COMMERCIAL ((BUSINESS ACTIVITIES)) ARRANGEMENTS WITH THIRD PARTIES

AMENDATORY SECTION (Amending WSR 96-17-071, filed 8/20/96, effective 9/20/96)

WAC 208-440-010 (~~((Credit union financial interest in commercial enterprise.)) Commercial arrangements with third parties. ((No credit union shall have any direct financial interest in a commercial enterprise by way of stock or other ownership interest in a commercial corporation, by way of partnership interest or participation in a joint venture in a general business enterprise or by way of exchanging money or services for a share of the proceeds of any commercial business enterprise except as provided below:~~

~~(1) Any credit union may make loans to commercial enterprises and investments in commercial enterprises to the extent permitted by statute;~~

~~(2) Any credit union may engage in the business of renting, leasing or subleasing portions of the land and building(s), in which the credit union carries on its business, to the extent that such land and buildings are not needed for credit union operations;~~

~~(3) The director may upon written application grant permission to a credit union to participate in a business enterprise not otherwise authorized by law or by this section, where the director is satisfied that the business enterprise is appropriate and adjunct to ordinary credit union operations and would not be contrary to law.)) (1) Credit unions may enter into arrangements with third parties in order for the third party to directly or indirectly offer goods and services to the credit union's members. These arrangements are referred to in this rule as commercial arrangements.~~

In connection with commercial arrangements, credit unions may:

(a) Allow third parties to offer goods and services to members through the credit union.

(b) Receive payment from third parties for participation in group purchasing enterprises.

(c) Endorse, directly or indirectly, goods and services of a third party.

This list is not intended to be exhaustive.

As used in this rule, the term "third party" includes, without limitation, credit union service organizations.

(2) Before entering into any commercial arrangements, a credit union's board must adopt a written policy regarding such arrangements, including, without limitation, provision for evaluation of potential risk of liability. The policy may require management to seek board approval of each arrangement, or may delegate the decision to management and provide guidelines for making the decision.

(3) Before entering into or renewing each commercial arrangement, a credit union must:

(a) Ensure that the arrangement is a prudent one and that it does not present safety and soundness risks to the credit union;

(b) Evaluate the potential risk of liability and ensure that the credit union takes appropriate precautions to reduce or offset such risk, including, without limitation, the use of such devices as disclaimers/disclosures to members and bond or insurance coverage; and

(c) Ensure that the contract evidencing the arrangement includes provision for indemnification of the credit union by the third party.

(4) Credit unions must comply with applicable laws in entering into and carrying out commercial arrangements, including any applicable law on privacy of member information.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 208-440-020	Endorsements of commercial products or services.
WAC 208-440-040	Use of credit union space to advertise commercial products and services.
WAC 208-440-050	Commercial programs offered to credit union members.

WSR 00-04-081

**PREPROPOSAL STATEMENT OF INQUIRY
PARKS AND RECREATION
COMMISSION**

[Filed February 1, 2000, 3:01 p.m.]

Subject of Possible Rule Making: The state Parks and Recreation Commission intends to review the content of chapter 352-32 WAC, Public use of state park areas, with specific interest in WAC 352-32-285 Applicability of standard fees to volunteers in parks and those administrative rules related to this section. The commission may determine the need to amend existing rules and adopt new rules in this chapter.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 79A.05.030 Powers and duties—Mandatory.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: The commission intends to review the applicability of standard fees to volunteers in the parks to identify opportunities for more appropriate incentives for volunteer services.

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 Washington State Parks, Attention: Harry Louch, P.O. Box 42650, 7150 Cleanwater Lane, Olym-

pia, WA 98504-2650, phone (360) 902-8579, fax (360) 753-1594, e-mail harry.louch@parks.wa.gov.

February 1, 2000
Jim French
Senior Policy Advisor

Final rule development will take place after the emergency WAC is implemented.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Pete Butkus, Executive Director, Public Works Board, P.O. Box 48319, Olympia, WA 98504-8319, phone (360) 586-7186, fax (360) 664-3029, e-mail peteb@cted.wa.gov.

February 2, 2000
Pete A. Butkus
Executive Director

WSR 00-04-086

**PREPROPOSAL STATEMENT OF INQUIRY
DEPARTMENT OF TRANSPORTATION**

[Filed February 2, 2000, 8:52 a.m.]

Subject of Possible Rule Making: WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-220.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 47.56.030, 47.60.326.

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Annual review of Washington state ferries tariff structure and farebox revenue needs has been completed, resulting in a proposal to raise ferry fares.

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 Mr. Ray Deardorf, Planning Director, Washington State Ferries, 2911 Second Avenue, Seattle, WA 98121, phone (206) 515-3491, fax (206) 515-3499.

January 31, 2000
Connie Niva, Chair
Transportation Commission

WSR 00-04-096

**PREPROPOSAL STATEMENT OF INQUIRY
PUBLIC WORKS BOARD**

[Filed February 2, 2000, 10:50 a.m.]

Subject of Possible Rule Making: Loan and financing guarantee applications, WAC 399-30-030.

Statutes Authorizing the Agency to Adopt Rules on this Subject: RCW 43.155.040(4).

Reasons Why Rules on this Subject may be Needed and What They Might Accomplish: Initiative 695, as passed by the voters on November 2, 1999, raises the possibility that some local government customers of the board will need to obtain voter approval of project financing. The board is considering the addition of "election costs" as an eligible direct cost item.

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

Process for Developing New Rule: Consult with interested parties to determine their interests. This topic is the subject of an emergency WAC passed on February 2, 2000.



WSR 00-04-087
EXPEDITED REPEAL
DEPARTMENT OF HEALTH
[Filed February 2, 2000, 9:08 a.m.]

The Following Sections are Proposed for Expedited Repeal: WAC 246-808-700.

Rules Proposed for Expedited Repeal Meet the Following Criteria: Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

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

Address Your Objection to: Connie Glasgow, Program Manager, Chiropractic Quality Assurance Commission, P.O. Box 47867, Olympia, WA 98504.

Reason the Expedited Repeal of the Rule is Appropriate: The rule is duplicative since investigations are covered in chapter 246-11 WAC, chapter 70.02 RCW.

January 12, 2000
Connie M. Glasgow
Program Manager

EXPEDITED REPEAL



WSR 00-02-034
PROPOSED RULES
YAKIMA REGIONAL
CLEAN AIR AUTHORITY
 [Filed December 29, 1999, 8:54 a.m.]

Original Notice.

Title of Rule: Draft Regulation I of the Yakima Regional Clean Air Authority.

Purpose: To enable the authority to assist the citizens, jurisdictions, and businesses of Yakima County to restore and maintain air quality which conforms to applicable air quality standards with minimal community disruption.

Statutory Authority for Adoption: Chapter 70.94 RCW.
 Statute Being Implemented: Chapter 70.94 RCW.

Summary: This new regulation should do the following:

1. Assist the authority in obtaining attainment status for two air pollutants in parts of Yakima County.
2. Clarify, correct, and supplement the existing regulation text.
3. Create a regulation in a clearer reading style.

Name of Agency Personnel Responsible for Drafting: Charles R. Stansel, 6 South 2nd Street, Suite 1016, Yakima, WA 98901, (509) 574-1410; Implementation: Les Ornelas, 6 South 2nd Street, Suite 1016, Yakima, WA 98901, (509) 574-1410; and Enforcement: Gary Pruitt, 6 South 2nd Street, Suite 1016, Yakima, WA 98901, (509) 574-1410.

Name of Proponent: Yakima Regional Clean Air Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new regulation will replace Restated Regulation I of the Yakima County Clean Air Authority. See Summary above.

Proposal Changes the Following Existing Rules: New rules or changes to existing rules are highlighted with under-scoring.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Does not apply to local air pollution control authorities.

RCW 34.05.328 does not apply to this rule adoption. Does not apply to local air pollution control authorities.

Hearing Location: Room 420, Yakima County Courthouse, 128 North 2nd Street, Yakima, WA 98901, on March 8, 2000, at 2:00 p.m.

Assistance for Persons with Disabilities: Contact Dema Harris by 12:00 noon, (509) 574-2215.

Submit Written Comments to: Yakima Regional Clean Air Authority, 6 South 2nd Street, Suite 1016, Yakima, WA 98901, fax (509) 574-1411, by March 8, 2000.

Date of Intended Adoption: Local adoption March 8, 2000.

Gary Pruitt
 for Les Ornelas
 Air Pollution Control Officer

RESTATED REGULATION 1
OF THE
YAKIMA COUNTY REGIONAL CLEAN AIR
AUTHORITY

YAKIMA COUNTY REGIONAL CLEAN AIR
AUTHORITY
YAKIMA, WASHINGTON 98901

Adopted this ___ day of _____, 2000
 by the

Board of Directors, Yakima Regional Clean
Air Authority
Yakima, Washington

- _____ Chairperson
- _____ Member
- _____ Member
- _____ Member
- _____ Member

ARTICLE 1 - GENERAL ADMINISTRATIVE PROVISIONS

1.01 NAME OF AUTHORITY (New section)

This agency is known as the Yakima Regional Clean Air Authority, and in this regulation it is referred to as the "authority".

1.02 SHORT TITLE (1.02)

These rules and This body of regulations shall is be known and cited as the "Restated Regulation 1 of the Yakima (County) Regional Clean Air Authority - 1999" and from this section forward it will be referred to as the "regulations".

ADOPTION HISTORY
REGULATION 1 OF THE YAKIMA REGIONAL
CLEAN AIR AUTHORITY

Amend. No.	Dates		Action	Sections
	Adopted	Effective		
N/A			Adoption of Regulation 1	All
1				
2				
3				

PROPOSED

1.03 POLICY

This section implements Washington Clean Air Act (WCAA) by doing the following:

A. PUBLIC POLICY. (1.01) It is declared to be the public policy of the Yakima County Clean Air Authority to secure and maintain ~~Securing and maintaining such~~ levels of air quality as that will:

1. Protect human health and safety;
2. Prevent injury to plant and animal life and property;
3. Foster the comfort and convenience of the inhabitants of Yakima County;
4. Promote the economic and social development; of Yakima County;
5. Facilitate the enjoyment of the natural attractions therein;
6. Prevent or minimize the transfer of air pollution (App. A) to other resources;

7. Ensure equity and consistency with the FCAA (App. B) and WCAA (App. B);

8. Educate and inform the citizens of Yakima Co. on air quality matters;

9. Maintain accurate and current policies, regulations, and rules;

10. Perform administrative actions in a timely and effective manner; and

11. Therein, and further to Cooperate with the local governments, the Yakama Indian Nation, organizations or citizens on air quality matters in achieving the policy objectives as set forth herein throughout the whole of Yakima County.

B. PROCEDURES AND STANDARDS. Controlling air pollution through procedures, standards, permits, and programs.

C. COMPLIANCE WITH ADOPTED STANDARDS. Ensuring compliance with all air quality rules and standards applicable to a source by all agencies, businesses and citizens.

D. COOPERATION AND COORDINATION. Cooperating and coordinating with federal, state, county, local, and tribal governments; governmental agencies; organizations; businesses; and the public in all matters related to air pollution characterization, measurement, and control.

E. STRATEGIC PLANNING. Developing strategies to avoid, reduce, or prevent air pollution through:

1. Innovative solutions;
2. Early planning; and
3. The integration of air pollution control in the work of other agencies and businesses.

F. GUIDELINES. Preparing guidelines which interpret, implement, and enforce these regulations.

G. BUSINESS ASSISTANCE POLICY. Providing reasonable business and technical assistance to the community.

H. STATE ENVIRONMENTAL POLICY ACT (SEPA). Fully complying with all the requirements of the SEPA (App. B) and holding other agencies, businesses, and individuals accountable for decisions within the jurisdiction of the authority.

I. STATE IMPLEMENTATION PLAN (SIP). Fully complying with the SIP (App. B). Changes in the SIP will be implemented through general rules or regulatory orders.

~~1.04 CAUSING OR PERMITTING AIR POLLUTION UNLAWFUL—EXCEPTION GENERAL APPLICABILITY (2.01)~~

~~Except where specified in a variance permit, as provided herein, it shall be unlawful for any person to cause air pollution or permit it to be caused in violation of these rules and Regulations:~~

~~All activities, persons, and businesses under the jurisdiction of this authority are subject to all provisions of these regulations except as described in a variance issued under subsection 3.00D (pg. 3-xx), a waiver granted under subsection 3.03H (pg. 3-xx), or granted exemptions from specific subsections. Implementation of these regulations may be through permits or orders that provide for equal or greater effectiveness in minimizing the effects of an existing or potential source of air pollution.~~

1.05 ROLES AND RESPONSIBILITIES

A. THE AUTHORITY. The authority is a municipal corporation with the rights described in WCAA (App. B) and exercising jurisdiction within Yakima County, WA.

B. THE BOARD OF DIRECTORS. The governing body of the authority is the board of directors. The board has the power to:

1. Adopt, amend and repeal its own rules and regulations in accordance with RCW 42.30, Open Public Meeting Act and RCW 34.05, Administrative Procedure Act;

2. Hold hearings relating to any aspect related to the administration of WCAA and other applicable law;

3. Issue any orders necessary to carry out the functions of WCAA and enforce them by all appropriate administrative and judicial proceedings;

4. Require access to records, books, files and other information specific to the control, recovery or release of air pollutants into the atmosphere;

5. Obtain necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;

6. Prepare and develop comprehensive plans for the prevention, abatement and control of air pollution;

7. Encourage voluntary cooperation by persons or affected groups to achieve the purposes of the state and federal laws and regulations;

8. Encourage and conduct studies, investigation and research relating to air pollution and its causes, effects, prevention, abatement and control;

9. Collect and disseminate information and conduct educational and training programs relating to air pollution;

10. Consult, cooperate, or contract with other agencies, departments, educational institutions, governments, and interested persons or groups; and

11. Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United States government for the purpose of carrying out the functions of WCAA and other applicable laws.

C. THE AIR POLLUTION CONTROL OFFICER. (2.02 A) The air pollution control officer (APCO) is appointed by the

board. The ~~Control Officer shall~~ APCO observes and enforces state and federal laws, orders, ordinances, ~~resolutions or rules~~ and regulations of the authority pertaining to the control and prevention of air pollution.

D. ADVISORY COUNCIL. (2.05) The ~~board of the Authority may in its discretion~~ appoint an advisory council to advise and consult with the board and ~~with the Control Officer~~ APCO in ~~effectuating~~ implementing the purposes of these regulations. The board may submit to the advisory council recommendations for the adoption or modification ~~or of~~ regulations or emission standards or other matters that it considers appropriate, ~~but shall not be required to do so.~~

1.06 RECORDS

A. PURPOSE. To define the policy for protecting records and making them availability to the public.

B. APPLICATION. To provide access to any information available under federal or state law concerning the business of the authority. The provisions of this section shall be interpreted to assure continuing public confidence in the authority.

C. PUBLIC RECORDS.

1. Availability. All public records of the authority are available for public inspection and copying during normal working hours at the office of the authority.

2. Legal Exemptions. Availability of public records is subject to exemptions and requirements of RCW 42.17.310 and RCW 70.94.205.

3. Process. All requests for records shall be processed according to RCW 42.17 and the current fee schedule.

D. CONFIDENTIAL RECORDS. (2.04)

1. Availability. Whenever the authority obtains any records or other information, other than ambient air quality data or emission data, ~~are furnished to or obtained by the Yakima County Clean Air Authority under this regulation~~ which:

a. The owners or operators certify in writing that the information relates to unique processes or production or the release of the information will likely have an adverse affect on the competitive position of the source; and

b. The authority agrees with the certification; then

c. ~~relates to processes or production unique to the owner or operator, or is likely to (adversely) affect the competitive position of such owner or operator (of said processes or production,) and the owner or operator of such processes or production so certifies, such records or~~ The information shall be is only for the confidential use of the Board authority.

2. Summaries for Publication. Nothing herein shall be construed to prevent The authority may use of records or confidential information by the Board in to compile or publishing analyses or summaries relating to the general condition of the outdoor atmosphere; if:

a. provided, that such The analyses or summaries do not reveal any information otherwise confidential under the provisions of this subsection; and

b. provided further, that The emission data furnished given to or obtained by the Board shall be the authority is correlated with applicable emission limitations and other control

measures and shall be available for public inspection during ~~normal business hours~~ at the office of the Board authority.

1.07 GENERAL PROVISIONS

A. COMPLIANCE. Failure to comply with any of the following is a violation of this regulation, and may result in either civil or criminal penalties:

1. FCAA (App. B).

2. WCAA (App. B).

3. CFR issued by EPA.

4. WAC issued by ecology.

5. Any section, subsection, or appendix of this regulation.

6. Any permit requirement, or

7. Any order or approval issued by the authority.

B. FALSE OR MISLEADING INFORMATION. No person shall:

1. Statements. (2.03A) ~~willfully make a false or misleading statement to the Board as to any matter within the jurisdiction of the Board: (WAC 173-400-105(7))~~ Make any false materials statement, representation or certification in any form, notice or report required under this regulation, resolution, permit or order of the authority or by WCAA (App. A).

2. Monitoring Devices. (WAC 173-400-105(8)) Render inaccurate any monitoring device or method required under this regulation, resolution, permit or order of the authority or by WCAA (App. A).

C. ALTERED DOCUMENTS. (2.03 B) No person shall reproduce or alter ~~or cause to be reproduced or altered~~ any order, registration certificate, or other paper issued by the authority ~~if the purpose of such reproduction or alteration is to which evades or violates or aids the evasion or violation of~~ any provision of this regulation or any other law.

D. AVAILABILITY OF ORDERS. (2.03C) Any order or registration certificate required to be obtained by this regulation, shall be available on the premises designated on the order or certificate.

E. POSTING OF NOTICES. (2.03D) ~~In the event that the authority requires a notice to be displayed, it shall be posted.~~ No person shall mutilate, obstruct or remove any notice posted by the authority unless authorized to do so by the board.

PRIMA FACIE EVIDENCE. (5.02B) ~~It shall be prima facie evidence that the person who owns or controls property on which outdoor burning occurs has allowed or caused such open fire:~~

F. SEVERABILITY. (8.05) ~~If (any phrase, clause, subsection, or) a section of this regulation (shall be) is declared unconstitutional or the application of a section is held invalid, (by any court of competent jurisdiction to any person shall be conclusively presumed that the Board of Directors would have enacted this Regulation without the phrase, clause, subsection, or section so held unconstitutional or invalid and) the remainder of the regulation shall not be affected as a result of said part being held unconstitutional or invalid, nor shall that provision be affected by other persons or circumstances.~~

PROPOSED

G. WAIVER. (5.12C) Nothing in this regulation shall be construed is intended to impair any cause of action or legal remedy therefore of by a person or the public, for or the injury or damage arising from the emission from of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

H. REVISIONS. The board may elect to open the entire regulation, an article, individual sections, specific subsections, or appendices for future revision at any time without opening the remainder of the regulation.

I. DISCLAIMER. Nothing in this regulation relieves a person (App. A) from the obligation to comply with laws, regulations, and standards of state or federal agencies.

J. DEFINITIONS, ACRONYMS, AND ABBREVIATIONS.

1. Commonly Used Definitions. The definitions of terms and phrases used in more than one section of the regulation are located in appendix A, and they are identified in the text with (App. A) following the term. When a definition is copied or abstracted from another source, the source is identified.

2. Commonly Used Acronyms and Abbreviations. Commonly used acronyms and abbreviations are defined in appendix B, and they are identified in the text with (App. B).

3. Specific Definitions. The definitions of terms and phrases used in only one section of the regulation are located in the beginning of the section, and they are identified in text with a (*) following the term.

4. Part of the Regulation. The definitions of terms, phrases, acronyms, and abbreviations are an integral part of this regulation.

1.08 EFFECTIVE DATE. (New Section) These regulations are effective May 1, 2000.

1.09 REVOCATIONS. (New Section) The following are revoked or replaced by sections of this regulation as the effective date of the regulation:

A. Restated Regulation 1 of the Yakima County Clean Air Authority with the following effective dates:

1. November 18, 1993.
2. January 13, 1994.
3. June 20, 1994.
4. October 20, 1994.
5. December 15, 1995.

B. Board Resolutions. None

C. Board Decisions. None.

ARTICLE 2 - GENERAL REGULATIONS

2.01 AIR POLLUTION CONTROL OFFICER - POWERS AND DUTIES

A. POWERS AND DUTIES. The board shall appoint an air pollution control officer (APCO) competent in the field of air pollution control whose responsibility shall be to implement these regulations in a manner consistent with:

1. Applicable federal and state laws and regulations;

2. County and/or city municipal ordinances where they are at least as stringent and effective as those of the authority; and

3. The air pollution control officer and assistants, in the performance of their duties, shall in all respects be subject to the direction of the board and take no action that has been prohibited by the board. (2.02E) Policies and directives of the board unless specifically limited elsewhere in this regulation or by other laws or regulations.

B. DELEGATED AUTHORITY. When the term "APCO" is used in this regulation, it also applies to any authorized representative of the authority conducting official business for the APCO (App. B) and the authority.

C. INVESTIGATIONS. (2.02B) The control officer APCO or his duly authorized agent may make any reasonable investigations, inspections, or studies, which is necessary for the purpose of to enforce this regulation or any amendment, hereto or controlling or reducing the amount of or kind of air contaminant. The Control Officer shall be required to maintain appropriate records and prepare periodic reports to the Board.

1. Purpose of Investigations. (2.02C) For the purpose of To investigating, inspect, or study conditions for specific to the control, recovery or release of air contaminants pollutants into the atmosphere.

2. Scope of Investigations. These investigations, inspections, or studies shall be limited to investigating and/or enforcing the following:

- a. Bona fide complaints about an alleged violation of this regulation, an amendment, or revision;
 - b. An alleged or actual violation of this regulation, an amendment, or revision;
 - c. An alleged or actual violation of a federal or state law or regulation enforced by the authority;
 - d. Any permit, order, or condition of approval issued by the authority;
 - e. Periodic testing and inspection of any source (app. A);
- or
- f. Any records, files, or other information that relate to subsection 2.01C1 (pg. 2-1).

3. Entry for Investigations. (2.02C)

a. The control officer or his duly authorized representative, shall have the power to enter any private or public property at reasonable times;

b. Non-multiple unit private dwellings housing two (2) families or less may not to be entered without the permission of the occupant(s) of dwelling(s);

c. No person shall refuse entry or access to the control officer.

4. Obstruction of an Investigation. Nor shall any person obstruct, hamper or interfere with such inspection, or study:

D. RIGHT TO OBTAIN SAMPLES. (2.02D)

1. Notification of Owner or Lessee. If, during the course of an inspection, the APCO a(n) authorized employee of the Authority, during the course of an inspection, desires to obtain a sample of air contaminant, fuel, process material or other material which affects or may affect the emission of air

contaminants, ~~he~~ the APCO shall notify the owner or lessee of the time and place of obtaining a sample.

2. Owner/Operator Sampling.

a. ~~So~~ The owner or operator lessee has the opportunity to may take a similar sample at the same time, and place, and method as the sample taken by the APCO authority.

b. As an alternative the owner or operator may request a representative portion of the sample taken by the APCO.

c. The representative sample shall not be provided to the owner or operator if the actions needed to obtain the representative sample can compromise the ability of the APCO to obtain an accurate sample.

3. Receipt for Sample. If requested the APCO authorized employee of the Authority shall give a receipt to the owner or lessee operator for the sample obtained.

E. MAINTAIN RECORDS. (2.02B) The APCO shall maintain appropriate records and prepare periodic reports to the board.

F. SIGNING AUTHORITY. The APCO is authorized by the board to take the following actions for the authority:

1. To sign official complaints, issue notices of violations, impose penalties, issue permits, sign regulatory or approval orders, sign contracts, and administrative correspondence.

2. To approve SEPA (App. B) documents as the Responsible Official.

3. To apply to any court for necessary orders.

G. LEGAL ACTION. When the board approves, the APCO may commence legal action. Nothing in this regulation may be construed to limit the APCO from using any other legal means to enforce the provisions of these regulations.

2.02 AUTHORITY TO COLLECT FEES

A. LEGAL AUTHORITY. WCAA (App. B) authorizes the authority to assess fees and recover costs for permits, registrations, and professional services.

B. CHARGES. Charges include but are not limited to the following:

1. Reimbursement of authority staff time for review of complex projects or lengthy enforcement actions;

2. Costs incurred by the authority for the implementation of the air operating permit program as defined in WAC 173-401-905 and WAC 173-401-940(1).

3. Reimbursement of authority staff time for costs to prepare notices of construction and initial SM (App. A & B) regulatory orders;

4. Reimbursement to a minimum of 50% of the cost for annual registrations including periodic inspections;

5. Charges from Ecology (App. B) for state level support and oversight work; and

6. Appropriate charges incurred by other agencies and requested to be collected shall be billed as part of a penalty.

C. REFUNDS.

1. The following fees are non-refundable:

a. Actual costs incurred by the authority.

b. Application fees.

2. Fees collected in excess of actual costs will be refunded without interest.

3. Fees collected in error will be refunded with interest.

D. FEES.

1. Adoption of Fee Schedules. Fee schedules shall be adopted by board resolution under the authority of RCW 42.30 at any time after receiving public comment.

2. Availability of Fee Schedules and Related Information. (13.05D) The workload analysis budget and fee allocations schedule and billing rate schedule for reimbursable fees shall be made available upon request. Any proposed revisions to the annual fee schedule shall be presented to the board for adoption after public notice has been given.

2.03 ADOPTION OF APPLICABLE STATE AND FEDERAL REGULATIONS

~~The Yakima County Clean Air authority hereby adopts by reference and incorporates herein, as if specifically set forth herein; all of the terms and provisions of implements and enforces the following The Yakima County Clean Air authority hereby adopts by reference and incorporates herein, (as if specifically set forth herein,) all of the terms and provisions of the as identified below: (Washington) State administrative codes WAC (App. B) and code of federal regulations CFR (App. B) as identified below, except as the same may be less stringent than the provisions of this regulation of the Yakima County Clean Air Authority.~~

A. STATE REGULATIONS. (12.01)

Chapter 173-400 WAC General Regulations for Air Pollution Sources;

Chapter 173-401 WAC Operating Permit Regulation;

Chapter 173-420 WAC Conformity of Transportation Activities to Air Quality Implementation Plans;

Chapter 173-425 WAC Open Burning;

Chapter 173-430 WAC Agricultural Burning;

Chapter 173-433 WAC Solid Fuel Burning Device Standards;

Chapter 173-434 WAC Solid Waste Incinerator Facilities;

Chapter 173-435 WAC Emergency Episode Plans;

Chapter 173-450 WAC Establishing Requirements for the Receipt of Financial Aid;

Chapter 173-460 WAC Controls for New Sources of Toxic Air Pollutants;

Chapter 173-470 WAC Ambient Air Quality Standards For Particulate Matter;

Chapter 173-474 WAC Ambient Air Quality Standards for Sulphur Oxides Standards;

Chapter 173-475 WAC Photochemical Oxidant, Hydrocarbons, Nitrogen Dioxide (Ambient Standards) Ambient Air Quality Standards for Carbon Monoxide, Ozone, and Nitrogen Dioxide;

Chapter 173-481 WAC Ambient Air Quality and Environmental Standards for Fluorides.

~~Chapter 173-490 WAC Emission Standards and Controls for Sources Emitting Volatile Organic Compounds (VOC);~~

Chapter 173-491 WAC Emission Standards and Controls for Sources Emitting Gasoline Vapors;

Chapter 173-806 WAC Model Ordinance; and

Chapter 197-11 WAC SEPA (App. B) Rules.

PROPOSED

B. FEDERAL REGULATIONS. (12.02)

40 CFR Part 50 National Primary and Secondary Ambient Air Quality Standards;

40 CFR Part 51 Requirements for Preparation, Adoption, and Submittal of Implementation Plans;

40 CFR Part 52 Approval and Promulgation of Implementation Plans;

Subpart A General Provisions; and

Subpart WW Washington;

40 CFR Part 58 Ambient Air Quality Surveillance;

40 CFR Part 60 (New Source Performance) Standards of Performance for New Stationary Sources (NSPS);

40 CFR Part 61 National Emissions Standards for Hazardous Air Pollutants (NESHAPS);

40 CFR Part 63 National Emission Standards for Hazardous Air Pollutants for Source Categories;

40 CFR Part 64 Compliance Assurance Monitoring;

40 CFR Part 68 Chemical Accident Prevention Provisions;

40 CFR Part 70 State Operating Permit Programs;

40 CFR Part 82 Protection of Stratospheric Ozone.;

40 CFR Part 503, Standards for the Use or Disposal of Sewage Sludge;

Subpart A, General Provisions;

Subpart E, Incineration; and

40 CFR Part 763 Asbestos Model Accreditation Plan.

2.04 PUBLIC PARTICIPATION. (WAC 173-400-171)

A. PURPOSE. To involve the public prior to making decisions.

B. APPLICABILITY. This section applies to the following actions or situations:

1. NSR (App. B) applications for a new or modified source or emissions unit if the application proposes a significant (App. A) net increase in emissions of any pollutant regulated by state or federal law or regulations; source would cause an annual increase of:

a. Five tons per year of lead; or

b. Ten tons per year of any other air contaminant for which the ambient air quality standards have been established;

2. Any application or proposed action requiring a public hearing under the PSD (App. A) of ecology;

3. An order to determine RACT (App. B);

4. An order to establish a compliance schedule or a variance;

5. Establishment or disestablishment of a nonattainment area, or the changing of the boundaries of a nonattainment area;

6. An order to demonstrate the creditable height of a stack (App. A) which exceeds the GEP (App. A) formula height and 213 ft. (App. B) or 65 m (App. B) by the use of a fluid model or a field study. The purpose of the demonstration is to establish emission limitations;

7. An order to authorize a bubble (App. A);

8. A NSR application or order to establish an ERC (App. A);

9. An order which establishes voluntary limits for the potential to emit for a source;

10. An application or action where there is a substantial public interest as determined by the APCO (App. B);

11. When required by federal or state law or regulation;

12. Changes to the SIP (App. B);

13. Substantive changes to regulations;

14. Draft air operating permits;

15. SEPA (App. B) determinations; and/or

16. Additional or special public participation requirements for air operating permit sources as directed by chap. 173-401 WAC, Part IX.

C. EARLY REVIEW. An early review of any action referenced in subsection 2.04B (pg. 2-xx) may be initiated by either the authority or the public by a written request.

1. Purpose. Provides a forum for dialogue at early stages of authority decision making.

2. Methods of Review.

a. Public meetings or workshops;

b. Advisory committees;

c. Peer review groups;

d. Discussion groups; or

e. Public hearings.

D. PUBLIC NOTICE PROCESS. (4.02H) The following is the public notice process:

H. Public Notice.

1. Notice of Construction applications shall be subject to public notice under the following conditions:

a. If otherwise required by state or federal laws or regulations; or

b. If the proposed source would cause an annual increase of ten tons of any air contaminant for which the ambient air quality standards have been established; or

e. If the Yakima County Clean Air Authority determines that such public comment would be appropriate.

2. Within fifteen days of receipt of a complete application for a Notice of Construction the Authority shall determine whether public notice is required, and if so it shall publish notice to the public of an opportunity to submit written comments during a thirty (30) day period. Such public notice shall contain the following information:

a. The name and address of the owner;

b. A brief description of the proposed construction;

e. The location at which a copy of the preliminary determination and a summary of the information considered in making such preliminary determination are available to the public.

1. Public Notice Is Issued.

a. After all information required by the authority is available; and

b. All preliminary determinations are made.

2. Who Pays For Public Notice. The owner or applicant pays the cost of providing public notice.

3. Content.

a. Publication in a Newspaper. Notices are published in a newspaper with a general circulation in the affected area, and they contain:

1) A brief description of the proposal;

2) The location of the documents available for public inspection;

3) The 30 day period for submitting written comments to the authority; and

4) The public hearing dates and locations if hearings are required.

b. Information Available for Public Inspection:

1) Nonconfidential information submitted by the applicant as defined in subsection 1.06D (pg. 1-xx);

2) Applicable preliminary determinations;

3) Analysis of the effects of implementing the proposed action on the ambient air quality;

4) Proposed decision by the APCO (App. B); and

5) Other relevant information.

c. Copies of the Public Notice.

1) Are sent to EPA (App. B) and ecology (App. B), for any application or action.

2) Are sent to the local offices of ecology or other local air authorities if the application or action could effect the ambient air quality in their jurisdictional area.

4. Public Comments.

a. Information for making public comments shall be available at the office of the authority and one public location in the area affected by the proposed action.

b. Public comments are received during the published period.

c. If a public hearing is held, the public comment period will extend through the hearing date and the period specified by the notice.

5. Public Hearings.

a. Interested persons may request a public hearing in writing within the 30 day public comment period.

b. The authority must respond to all requests.

c. The authority decides whether to hold a public hearing.

d. The time and place of the hearing(s) are published in a newspaper with general circulation in the area. The method and content of the notice will comply with subsection 2.04D3a (pg. 2-xx).

6. Response to Public Comment. The authority shall provide a written response to the public comments.

2.05 APPEALS

A. PURPOSE. To define the local policy for appeals of decisions by the APCO (App. B) or board.

B. APPLICABILITY. Any final written decision, order, penalty, fee, permit action, or resolution made by the APCO or board may be appealed.

C. PROCESS.

1. General Direction. The specific details for appeals are in chap 34.04 RCW, chap. 34.05 RCW, chap. 43.21 RCW, chap. 70.94 RCW, WAC 173-400-250, and WAC 173-401-735.

2. Agricultural Odors. See subsection 3.01C3a4) (pg. 3-xx) for an appeal involving agricultural odors.

3. Mutual Settlement. (3.04) Nothing in this article shall prevent the Control Officer APCO or board from mak-

ing efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

4. Finality. (3.02) Any order issued by the Board or Control Officer shall become final, unless such order is appealed to the Pollution Control Hearings board, as provided in RCW 43.21B.

5. Status During Appeal. (3.03) Any order of the Control Officer or Board shall be stayed pending final determination of any hearing or appeal taken in accordance with the provisions herein, unless after notice and hearing, the Superior Court shall determine that an emergency exists which is of such nature as to require that such order be in effect during the pendency of such hearing or appeal.

ARTICLE 3 - RULES

3.00 GENERAL RULES

A. PURPOSE. To define rules of a general nature.

B. APPLICABILITY. Applies to the rules in articles 3 and

4.

C. EXEMPTIONS. None.

D. VARIANCES. (7.01 & RCW 70.94.181)

A. Any person who owns or is in control of any plant, building, structure, establishment, process or equipment, may apply to the Board for a variance from the provisions of these Regulations governing the quality, nature, duration or extent of discharge of air contaminants in accordance with the provisions of RCW 70.94.181. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice if the Board finds that:

1. The emissions occurring or proposed to occur do not endanger public health or safety or the environment; and

2. Compliance with the rules and regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

3. Provided, however, that the Board will not grant variances to state rules unless the same have been approved by the Washington State Department of Ecology prior to being issued by the Yakima County Clean Air Authority.

4. Total time period for a variance and a renewal of such variance shall not exceed one year.

B. No variance shall be granted pursuant to this section until the Board has considered the relative interest of the applicant, other owners of property likely to be affected by the emissions, and the general public.

C. Any variance or renewal thereof shall be granted within the requirements of subsection A and for time periods and under conditions consistent with the reasons therefore, and within the following limitations:

1. If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternative measures that the Department of Ecology or Board may prescribe.

PROPOSED

1. ~~If the variance is granted on the ground that compliance with the particular requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time, as in the view of the Department of Ecology or Board is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.~~

2. ~~If the variance is granted on the ground that it is justified to relieve or prevent hardships of a kind, other than that provided for in Subsections 7.01 (A)(1), (2), and (3), it shall be for not more than one (1) year.~~

D. ~~If renewal is made to the Board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon the receipt of the application for renewal the Board shall give public notice of such application in accordance with the rules and regulations of the Board.~~

E. ~~A variance or renewal shall not be a right of the applicant or holder thereof but shall be granted at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for variance or renewal of a variance by the Board, may obtain judicial review thereof under the provisions of Chapter 34.05 of RCW as now or hereafter amended.~~

F. ~~Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the applications of the emergency provisions and procedures of RCW 70.94.710 through 70.94.730 to any person or their property.~~

G. ~~An application for variance or for the renewal thereof submitted to the Department of Ecology or Board pursuant to this section, shall be approved or disapproved by the Board within sixty (60) days of receipt, unless the applicant and the Board agree to a continuance~~

1. Purpose. ~~To provide a process for obtaining relief from these regulations.~~

2. Applicability. ~~Any person (App. A) who is subject to these regulations.~~

3. Requests for Variances or Renewals.

a. General Process.

1) Petitioner submits the written application and documentation to the APCO (App. B);

2) APCO reviews the application and submits it to the board with a recommendation;

3) Board makes a decision or recommendation to ecology.

a) If the requested variance is to an authority rule which is not duplicated in the SIP (App. B) or the WAC (App. B), the decision is made by the board.

b) If the requested variance is to a state rule, the application is referred to ecology (App. B) with a recommendation, and ecology approves the request. If approved, ecology will

send the request to EPA (App. B) with a recommendation for final approval and inclusion in the SIP (App. B) (7.01A3); and

4) The variance is granted by the authority after the final approval.

b. Application. ~~The following information is required in the application:~~

1) Specific regulation from which relief is requested;

2) Detailed explanation that justifies relief from compliance with the regulation;

3) Plans to bring the source into compliance with the regulation prior to the expiration of the variance;

4) Air pollution source, equipment, and control apparatus (App. A) subject to the variance;

5) Any equipment connected to, serving, or served by the air pollution source, equipment, and control apparatus subject to the variance;

6) Plot plan showing the distance and height of buildings within 200 feet or other distance specified by the APCO from the location of the contaminant source; and

7) Estimated amount that the emissions will exceed standards as a result of the variance.

c. Additional Documentation.

1) Any additional information required by the APCO.

2) Any information volunteered by the petitioner.

d. Review Criteria. (7.01B) Before granting a variance, the board must consider the interests of:

1) The applicant;

2) Owners of adjacent property likely to be affected by the variance; and

3) The general public.

e. Review Period. (7.01 G) Any application for variance or renewal must be approved or disapproved by the board within 60 days of receipt unless the applicant and the board agree to a continuance.

f. Public Involvement. Shall be done as required in section 2.04 (pg. 2-xx).

4. Conditions for Granting a Variance. (7.01A1&2)

a. The emissions proposed do not endanger public health, safety, or the environment;

b. The emissions from the source proposing the variance either singularly or in combination with other sources in the vicinity will not cause a violation of a NAAQS (App. B) or a PSD (App. B) increment; and

c. Compliance with the rules or regulations without a variance would produce serious hardship without equal or greater public benefits.

5. Limitations for Granting a Variance or Renewal. (7.01C)

a. No Practicable Technology Available.

1) Adequate prevention, abatement or control of the pollution is not available;

2) The variance is granted only until the necessary technology for prevention, abatement or control becomes available.

3) When the control technology becomes reasonably available;

a) The variance may be rescinded; and

b) Ecology or the board may prescribe alternate measures.

b. Compliance with Requirements will be Difficult.

- 1) Will require taking measures which are extensive or costly;
- 2) Must be accomplished over a long time period;
- 3) The variance must be granted for a reasonable time to complete the required measures;
- 4) The variance must contain a schedule for completing the measures in a timely manner; and
- 5) Must include conditions requiring adherence to the schedule.

6. Expiration. (7.01A4) Variances and renewals shall expire one year or less after the issuance, or sooner if:

- a. The conditions of the variance or renewal are fulfilled;
- or
- b. Replaced by a new law or regulation.

7. Renewals (7.01D & RCW 70.94.181(1)) Any variance may be renewed for the same terms, conditions, and period as when the variance was granted up to one year from the initial issuance of the variance.

a. Application for Renewal. (7.01D) Must be submitted at least 60 days prior to the expiration of the variance. Immediately upon the receipt of the application the board must give public notice of the application.

b. The process for the renewal will follow subsection 3.00E3 (pg. 3-xx).

c. Renewals After Complaints Concerning Variances. (7.01D & RCW 70.94.181(1)) If ecology or the board receives a complaint about the variance, a renewal must not be granted until the board issues a notice and holds a public hearing on the complaint. Based upon results of the public hearing, the board will grant a renewal if it finds the renewal is justified.

d. Applications for renewals beyond one year must apply for a new variance.

8. Judicial Review. (7.01 E) A variance or its renewal is not the right of the applicant or holder, but is granted at the discretion of the board. Any applicant who is adversely affected by the denial or the conditions of a variance or its renewal may obtain judicial review under the provisions of Chap. 34.05 of RCW.

9. Emergency Provisions. (7.01F) Nothing in this section or any variance or renewal granted under this section is construed to limit the applications of the emergency provisions and procedures of air pollution episodes as described in WCAA (App. B).

E. OPERATION AND MAINTENANCE.

1. Purpose. To define operation and maintenance standards for all process and control apparatus (App. A) to prevent avoidable emissions.

2. Applicability. Any person or emission unit which is subject to these regulations.

3. Exemption. Process or control apparatus which is out of service.

4. Requirement. The owner or operator of an air pollution source shall:

a. Operate and maintain all process and control apparatus, which has the potential to allow emissions, according to the specifications and recommendations of the manufacturer;

b. Maintain this equipment in good repair and working condition;

c. Operate this equipment to minimize emissions; and

d. Keep a current copy of the manufacturer's manuals and specifications on the site and available for inspection by the APCO (App. B).

3.01 EMISSION STANDARDS

A. PURPOSE. To control and prevent air pollution.

B. APPLICABILITY. (5.06) To all sources and emissions units, are required to meet the emission standards of this chapter. Where When multiple an emission standards listed exist, in another chapter is applicable to a specific emissions unit, such all standards will apply, take precedent over a general emission standard listed in this chapter.

C. GENERAL EMISSION STANDARDS FOR MAXIMUM PERMISSIBLE EMISSIONS. All sources are required to comply with the general emission standards. The measurable emission standards cited in this section are listed in app. D with the test methods and compliance assurance requirements. Exemptions are listed in subsection 3.01C3 (pg. 3-xx).

1. Prohibitions. (5.06)

a. Visible Emissions. (5.06, 5.07A, & 5.09B) No person shall cause or permit visible emissions (App. A) plume from any emissions unit that exceeds twenty percent (20%) opacity for three minutes in any one hour period except:

1) (5.06A1 & 5.09B1) When the emissions occur due to soot blowing and grate cleaning from hog fuel boilers, and the operator can demonstrate that the emissions will not exceed twenty percent (20%) opacity (App. A) for more than fifteen (15) minutes in any eight (8) consecutive hours. The intent of this provision is to permit allow the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day, and the authority must be advised of the schedule.

2) (5.06A2) When the owner or operator of the source supplies valid data to show that the opacity exceeds twenty percent (20%) as the result of only uncombined water the presence of condensed water droplets, as determined by a certified opacity reader. The concentration of particulate matter as shown by a source test approved by the Authority must be less than one-tenth (0.1) grains per dry standard cubic foot. For combustion emissions the exhaust gas volume shall be corrected to seven percent (7%) oxygen.

3) When two or more sources are connected to a common stack (App. A), the authority may allow or require the use of an alternate time period if it is more representative of normal operations.

4) When an alternate opacity limit has been established as authorized by WCAA (App. B).

5) (5.06A3) As provided for in WAC 173-433-110 "Opacity Standards For Solid Fuel Burning Devices". The opacity standard for wood heaters is in subsection 3.04E1(a) (pg. 3-xx).

b. Particulate Matter.

PROPOSED

1) ~~Preventing Particulate Matter from becoming airborne. (5.06B). No person shall cause or allow permit the emission of particulate matter PM (App. A) from any source which is transported or becomes deposited beyond the source property under direct control of the owner or operator of the source in sufficient quantity to interfere unreasonably with the use or and enjoyment of another the property upon which the material was transported or deposited.~~

2) ~~(5.12A) No person shall cause or, let, allow, permit or suffer particulate matter PM to be stored, handled, or transported without taking reasonable precautions to prevent the release of air pollutants,~~

c. ~~Reasonable Precautions. (5.12B) No person shall cause or, let, allow, permit, or suffer a building or its appurtenances or road to be constructed, altered, repaired or demolished without taking reasonable precautions to prevent the release of air pollutants.~~

d. ~~Odors. (5.06D) Any person who shall causes or allows the generation of any odor from any source which may unreasonably interfere with an the adjoining property owner's use or and enjoyment of another his property must use recognized good practice and procedure to reduce these odors to a reasonable minimum.~~

e. ~~Air contaminants or water vapor Detrimental Emissions to persons or property. (5.06 E) No person shall cause or allow an permit the emission of any air contaminant or water vapor from any source, including any air contaminant whose emission is not otherwise prohibited by this Regulation, if the air contaminant or water vapor causes detrimental to the health, safety, or welfare of any person; or causes damage to the property or business of another person.~~

f. ~~Sulfur Dioxide (SO₂) (App. B) (5.06 F)~~

1) ~~(5.06 F1) No person shall cause or permit the emission of a gas containing sulfur dioxide SO₂ in excess of 1,000 parts per million (ppm). (App. B).~~

2) ~~(5.06 F2) All concentrations of sulfur dioxide SO₂ referred to above are by volume, dry standard conditions (App. A), and For combustion emissions the exhaust gas volume shall be corrected to seven percent (7%) oxygen O₂ (App. B) and based on the average of any period of sixty 60 consecutive minutes.~~

3) ~~When the owner or operator of a source emitting SO₂ supplies emission data and demonstrates there is no feasible method of reducing the concentration to < 1,000 ppm and the state and federal ambient air quality standards for SO₂ will not be exceeded, the authority may require:~~

a) ~~Specific ambient air monitoring stations to be established, operated, and maintained by owner or operator at mutually approved locations;~~

b) ~~The sampling results shall be available upon request; and~~

c) ~~A monthly summary shall be submitted to the authority.~~

g. ~~Concealment and Masking. (5.06G) No person shall cause or permit the installation or use of any device, or the use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of an air contaminant pollutant which would other-~~

wise violate any requirements provisions of this regulation chapter.

h. ~~Sale or Installation of Air Pollution Source. (5.06I) No person shall hereafter sell or install within the jurisdiction of the Yakima County Clean Air Authority any continuous, stationary an air contaminant pollution source in which the air contaminant emitted therefrom cannot be restricted to not capable of meeting the standards of this regulation as set forth in Sections 5.06(A) and 5.08.~~

2. Requirements.

a. Two or More Emission Units. (5.06) When two or more emissions units are connected to a common stack, and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units.

b. Reasonably Available Control Technology (RACT) (App. A). (5.06, 5.09B2, & 5.09H) Further, All emissions sources and units are required to use reasonably available control technology (RACT).

3) This which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of any chapter of Title 173 WAC.

4) Where current controls are determined to be less than RACT, the authority shall, on a case-by-case basis, define RACT for each source or source category and issue a regulatory order to the source or sources for installation of RACT.

c. Fugitive Dust Sources. (5.06H) No person shall cause or permit material handling without taking reasonable precautions to prevent the release of contaminants to the ambient air. (5.06C)

1) (5.06H1) The owner or operator of a source of fugitive dust must shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

2) (5.06 H. 2) The owner(s) or operator(s) of any existing source(s) of fugitive dust that has been identified as a significant contributor to a Category I PM₁₀ or PM_{2.5} nonattainment area, shall be required to must use reasonably available control technology RACT to control emissions. Significance will be determined by the definition found in 40 CFR Part 51, Appendix S, as amended July 1, 1990 subsection 4.02G2g (pg. 4-xx) and table 4.02-2 (pg. 4-xx).

3) Specific dust control requirements are in section 3.08 (pg. 3-xx).

d. Opacity Measurement. (5.06J) The density or opacity of an air contaminant shall emission must be measured at the point of its emission, except When the point of emission cannot be readily observed it may be measured at an observable point on a plume nearest the point of emission.

e. Maintenance and Operation. As required in subsection 3.00E (pg. 3-xx).

f. Compliance Testing. As required in subsection 3.11E2 (pg. 3-xx).

g. Inspection. As authorized in subsection 5.00C (pg. 5-xx).

h. Permitting. Owners or operators of sources may be required to obtain permits from the authority under sections 4.04 (pg. 4-xx) or 4.05 (pg. 4-xx).

3. Exemptions.

a. Odors Caused by Agricultural Activities (App. A) Using Good Agricultural Practices (App. A) (RCW 70.94.640).

1) These odors are exempted from this regulation unless there is a substantial adverse effect on public health.

2) In determining good agricultural practices the authority shall consult with a recognized third-party expert prior to issuing a NOV (App. B).

3) A NOV issued under this subsection shall include a statement that the activity:

a) Is inconsistent with good agricultural practices; or

b) Has odors that have a substantial adverse impact on public health.

4) In an appeal to the pollution control hearings board or superior court, the authority shall prove the activity:

a) Is inconsistent with good agricultural practices; or

b) Has odors that have a substantial adverse impact on public health.

5) When a parcel of land is sold from contiguous agricultural land for residential purposes, this exemption does not apply.

b. NH₃ (App. B) Emissions from Fertilizer. (RCW 70.94.645) NH₃ emissions from the storage, distribution, transport, or application of a NH₃ fertilizer for agricultural or silvicultural uses are exempted from regulation.

D. MINIMUM ADDITIONAL EMISSION STANDARDS FOR COMBUSTION AND INCINERATION SOURCES (App. A) (5.07) These standards are in addition to the general standard in subsection 3.01C (pg. 3-xx).

1. Particulate Matter.

a. Sources Burning Wood Derived Fuels. (5.09B1) The emission of PM from a unit combusting wood derived fuels for the production of steam must not exceed 0.46 gram per dscm (App. B) (0.2 grain per dscf (App. B)).

b. All Other Sources. The emission of PM must not exceed 0.23 gram per dscm (0.1 grain per dscf).

c. Measurement. The concentration of PM will be measured as specified in app. D (pg. D-xx)

2. Incineration Sources. (App. A)

3. Total Unburned Hydrocarbons Volatile Organic Compounds (VOCs). (5.07B) For all Incinerator sources, no person shall cause or permit emissions in excess of 100 ppm. This of total unburned hydrocarbons as must be measured by as specified in app. D (pg. D-2).

a. Hours of Operation. (5.07B) Incinerators shall will be operated only during daylight hours (App. A) unless written permission to operate at other times is obtained received from the authority.

b. Large Incinerators. (5.07D) All incinerators designed to burn twelve tons per day of materials shall be are subject to the standards set forth in chap. 173-434 WAC if they are:

1) Designed to burn \geq (App. B) 12 tons per day of materials; and

2) Constructed after January 1, 1985.

E. MINIMUM EMISSION ADDITIONAL STANDARDS FOR GENERAL PROCESS SOURCES. (App. A)

1. These standards are in addition to the general standard in subsection 3.01C (pg. 3-xx).

2. (5.07E & 5.08) No person shall cause or permit emissions in excess of Section 5.08. General Process Units are required to meet all applicable provisions of Section 5.06. No person shall cause or permit the emissions of particulate matter from any general process operation in excess of one tenth (0.10) grains per standard cubic foot of dry exhaust gas as tested by: The emission standard and test for PM will be measured as specified in app. D (pg. D-2).

E. MINIMUM EMISSION ADDITIONAL STANDARDS OR PROCEDURES FOR CERTAIN SOURCE Categories (5.09 & WAC 173-400-070) The authority finds that reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the minimum allowable standards for sources within the categories listed, and Except as specifically provided in this Section, such sources shall be required to meet the provisions of Section 5.06, Section 5.07, and Section 5.08. These standards are in addition to the standards in subsection 3.01C, D, or E (pgs. 3-xx to yy).

1. Hogged Fuel Boilers. (5.09B)

(5.09B1) No person shall operate a hogged fuel boiler that will cause or permit an emission for more than three (3) minutes in any one (1) hour of an air contaminant from any source which, at the emission point or within a reasonable distance of the emission point, exceeds twenty percent (20%) opacity or which causes an emission of particulate matter in excess of one fifth (0.20) grains per standard dry cubic foot. Particulate matter emissions shall be measured by EPA Method 5 or approved procedures contained in "Source Test Manual Procedure for Compliance Testing", State of Washington Department of Ecology on file at the Authority or Ecology. Provided that emissions may exceed twenty percent opacity (20%) for up to fifteen (15) consecutive minutes once in any eight (8) hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of these units. This practice is to be scheduled for the same specific times each day and the authority shall be notified of the schedule or any changes.

(5.09B2) All hogged fuel boilers shall utilize Reasonably Available Control Technology and shall be maintained and operated to minimize emissions.

(5.09B3) The visible and particulate emission standards and tests are in app. D. The authority may establish additional requirements for hogged fuel boilers located in or proposed for location in sensitive areas which can be implemented through permitting or enforcement actions. These additional requirements may include, but shall not be limited to:

a. (5.09B3a) A requirement to meet additional provisions of subsection 5.07 3.01D (pg. 3-xx);

b. (5.09B3b) A requirement to utilize Best Available Control Technology BACT (App. B); or

c. (5.09B3c) A requirement to reduce or eliminate emissions if the authority establishes that such emissions unreasonably interfere with the use or enjoyment of the property of

others or if such reductions or eliminations are necessary to meet ambient air quality standards.

2. Orchard Heating.

a. (5.09C&C1) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited; and

b. (5.09C2) It shall be unlawful to burn any material or operate any orchard heating device that causes visible emissions exceeding twenty percent (20%) opacity, except during the first thirty (30) minutes after such device or material is ignited. The visible emission standard and test is in app. D (pg. D-1).

3. **Grain Elevators.** (5.09 D2) The authority may establish additional requirements for grain elevators. These requirements may include, but shall not be limited to a requirement to meet the provisions of Section 5.06 and Section 5.08 standards of subsection 3.01E. (5.09D1) Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of Section 5.06, B, C, D, and E.

4. Catalytic Cracking Units. (5.09G)

a. Existing Units. (5.09G1) All existing catalytic cracking units shall meet all provisions of Sections 5.06 (B), (C), (D), (E) and (G) and:

1) No person shall cause or permit the emission for more than three (3) minutes, in any one hour, of an air contaminant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds forty percent opacity. The visible emission standard is in app. D (pg. D-2).

2) No person shall cause or permit the emission of particulate material in excess of 0.46 grams per dry cubic meter of standard conditions (0.20 grains dscf) of exhaust gas. The PM emission standard is in app. D (pg. D-2).

b. All New Catalytic Cracking Units. (5.09G2) shall meet all provisions of WAC 173-400-115. The maximum visible emission is the opacity standard in subsection 3.01C1a (pg. 3-xx) and app. D (pg. D-2) or a lower standard established during a NSR (App. B).

5. **Sulfuric Acid Plants (H₂SO₄).** No person will cause to be discharged into the atmosphere from a H₂SO₄ plant, any gases which contain acid mist, expressed as H₂SO₄, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as 100% H₂SO₄.

6. **Sewage Sludge Incinerators.** See subsection 2.03B (pg. 2-xx) for the standards.

7. **Asbestos.** (5.09E) No person shall remove or otherwise disturb asbestos, to the extent that asbestos fibers may become airborne, without notifying the Authority ten (10) business days prior to removal. If removal is necessary due to an emergency, the ten day waiting period may be waived by the Authority.

1. Private Residents:

Private homeowners, when removing friable asbestos materials from their normally occupied or will be normally occupied homes, may be required to remove the asbestos materials according to the National Emission Standard for Hazardous Air Pollutants (NESHAPS) as set forth in Title 40

Code of Federal Regulations part 61, as the same now exists or may be amended. Removal and disposal of non-friable asbestos materials shall be conducted in accordance with practices and procedures approved by the Authority.

2. Small Quantity Asbestos Material:

Asbestos Materials in quantities less than 160 square feet or 260 linear feet must be removed and disposed of according to practices and procedures approved by the Authority.

3. Commercial, Industrial or other sources:

No person shall demolish any commercial, institutional, or industrial building, or any residential facility constructed to house four (4) or more families without first performing a thorough inspection, to be conducted by a qualified expert to determine the quantities and types of asbestos materials present. If it is determined that such building contains asbestos, no person shall commence the demolition of such facility without complying with the requirements of NESHAPS, the Federal Rule stated in E (1) above.

4. Fees or Administrative Charges:

Fees associated with this subsection (5.09(E)) shall be in accordance with Article XIII, Section 13.04 of this regulation:

8. Wigwam Burners. (5.09F)

a. All wigwam burners shall meet all provisions of Section 5.06 (B), (C), (D), (E), (F) and (G).

b. All wigwam burners shall use RACT. All emissions units shall be operated and maintained to minimize emissions. These requirements may include a controlled tangential vent over fire air system, an adequate under fire system, elimination of all unnecessary openings, a controlled feed and other modifications determined necessary by Ecology or the Authority.

e. It shall be unlawful to install or increase the existing use of any burner that does not meet all requirements for new sources including those requirements specified in Section 5.06 and Section 5.07, except operating hours.

d. Ecology may establish additional requirements for wigwam burners located in sensitive areas as defined by chapter 173-440 WAC. These requirements may include but shall not be limited to:

i. A requirement to meet all provisions of in Section 5.06 and Section 5.07. Wigwam burners will be considered to be in compliance if they meet the requirements contained in Section 5.06(A). An exception is made for a startup period not to exceed thirty (30) minutes in any eight (8) consecutive hours.

ii. A requirement to apply BACT.

iii. A requirement to reduce or eliminate emissions if Ecology establishes that such emissions unreasonably interfere with the use and enjoyment of the property of others or are a cause of violation of ambient air standards.

9. Asphalt Batch Plants. (5.09A)

a. All batch plants shall meet all requirements of Title 40 CFR 60.90 Subpart I, "Standards of Performance for Hot Mix Asphalt Facilities".

b. Asphalt batch plants shall utilize Best Available Control Technology and shall be maintained and operated to minimize emissions

10. Other Wood Waste Burners. (509H) Wood waste burners not specifically provided for in this section shall meet all provision of Section 5.06. Such wood waste burners shall utilize RACT and shall be operated and maintained to minimize emissions.

3.02 STANDARDS FOR SOURCES OF HAZARDOUS AIR POLLUTANTS. (WAC 173-400-075 & Chap. 173-460 WAC) (New Section)

A. PURPOSE. To control and prevent emissions of hazardous air pollutants.

B. APPLICABILITY. Applies to the owners or operators of any stationary source subject to the requirements of 40 CFR Parts 61 and 63.

C. REFERENCES.

1. Subsection 2.03B references 40 CFR Parts 61 and 63 and WAC 173-400-075 as applicable.

- 2. Hazardous air pollutants (HAP) are listed in app. L.
- 3. Toxic air pollutants (TAP) are listed in app. K, para. B.

D. EMISSION STANDARDS FOR PERCHLOROETHYLENE (PCE) DRY CLEANERS. (WAC 173-400-075(6))

1. Purpose. To define specific standards for dry cleaners using the solvent PCE (App. B) which supplement 40 CFR Part 63, Subpart M, National Perchloroethylene Emission Standards for Dry Cleaning Facilities.

2. Applicability. Any dry cleaning operations that uses PCE.

3. Requirements. The quantity of PCE used annually determines the source category, venting, and leak inspection frequency requirements.

a. Source Categories: Are shown in tables 3.02-1.

Table 3.02-1 PCE Dry Cleaner Source Categories

<u>Applicability</u>	<u>Small Area Sources</u> (a)	<u>Large Area Sources</u> (b)	<u>Major Area Sources</u> (c)
<u>Dry cleaning Facilities with</u>	<u>Purchasing less than</u>	<u>Purchasing between:</u>	<u>Purchasing more than</u>
<u>(1) Only Dry-to-Dry Machines</u>	<u>140 gallons PCE/yr</u>	<u>140-2,100 gallons PCE/yr</u>	<u>2,100 gallons PCE/yr</u>
<u>(2) Only Transfer Machines</u>	<u>200 gallons PCE/yr</u>	<u>200-1,800 gallons PCE/yr</u>	<u>1,800 gallons PCE/yr</u>
<u>(3) Both Dry-to-Dry & Transfer Machines</u>	<u>140 gallons PCE/yr</u>	<u>140-1,800 gallons PCE/yr</u>	<u>1,800 gallons PCE/yr</u>

b. Change in PCE Consumption. If there is an increase or decrease in the amount of PCE used that changes the source category, the owner or operator of the source must notify the authority within 180 days.

c. Venting and Leak Inspection. The requirements are shown in table 3.02-2. During the inspection the systems must be operating. An inspection must include an examination of the following system components:

- 1) Hose and pipe connections, fittings, couplings, and valves;

- 2) Door gaskets and seatings;
- 3) Filter gaskets and seatings;
- 4) Pumps;
- 5) Solvent tanks and containers;
- 6) Water separators;
- 7) Muck cookers;
- 8) Stills;
- 9) Exhaust dampers;
- 10) Diverter valves; and
- 11) Cartridge filter housings.

Table 3.02-2 PCE Dry Cleaner Venting and Leak Inspection Requirements.

<u>Requirement</u>	<u>Small Area Sources</u> (a)	<u>Large Area Sources</u> (b)	<u>Major Area Sources</u> (c)
<u>Air-PCE Vapor Venting System</u>			
<u>(1) Installed on or before Sept. 21, 1993.</u>	<u>No requirement</u>	<u>Through a refrigerated condenser</u>	<u>Through a refrigerated condenser</u>
<u>(2) Installed after Sept. 21, 1993.</u>	<u>Thru a refrigerated condenser.</u>	<u>Through a refrigerated condenser</u>	<u>Through a refrigerated condenser followed by a small carbon adsorber.</u>
<u>(3) PCE Leak Inspection Frequency</u>	<u>Every other week.</u>	<u>Weekly</u>	<u>Weekly</u>

d. Registration is required as specified in section 4.01 (pg. 4-xx).

PROPOSED

e. Operation and Maintenance.

- 1) As required by subsection 3.00E (pg. 3-xx); and
- 2) Close the door of each dry cleaning machine except when transferring articles to or from the machine.

F. Leak Repair.

- 1) Leaks must be repaired within 24 hours of detection unless repair parts can not be ordered;
- 2) Repair parts must be ordered within two working days of detecting the leak; and
- 3) Repair parts must be installed within 5 working days after receiving them.

g. Storage of PCE.

- 1) Store all PCE and wastes containing PCE in a closed container; and
- 2) Drain cartridge filters in the housing or other sealed container for at least 24 hours before discarding the cartridges.

h. Recordkeeping Requirements. The following requirements are in addition to the requirements in section 3.11 (pg. 3-xx). Documents and records must be kept on-site at the dry cleaning facility for at least:

- 1) As long as the PCE dry cleaning and process vent or control systems are in operation:
 - a) Design specifications and operating manuals;
 - b) Maintenance plans;
 - c) Design specifications and operating manuals for any modifications to these systems.
- 2) Five years after the close of the business year.
 - a) A record of dates and results of all monitoring, inspections, and repairs of the PCE dry cleaning system.
 - b) A record of the amount of PCE purchased each month including the receipts for the PCE purchases.
 - c) A record of the amount of PCE used for each machine during the previous 12 months.
 - d) A record of the total weight of articles cleaned for each machine during the same 12 month period used in subsection 3.02D3h (2)(c) (pg. 3-xx).
 - e) If a refrigerated condenser is used on a dry-to-dry machine, dryer, or reclaim, a weekly record of the air temperatures measured at the outlet of the refrigerated condenser during the cool-down period to verify compliance with subsection 3.02D3i (pg. 3-xx).
 - f) If a refrigerated condenser is used on a washer, a weekly record of the differences between the air temperatures measured at the inlet and outlet of the refrigerated condenser to verify compliance with subsection 3.02D3i (pg. 3-xx).
 - g) If a carbon adsorber is used on a dry cleaning system, a weekly record of measuring the concentration of outlet PCE to verify compliance with subsection 3.02D3j (pg. 3-xx).
- i. Requirements for Refrigerated Condensers.
 - 1) Have temperature sensors permanently installed prior to September 23, 1996, if the PCE dry cleaning system was built prior to December 9, 1991;
 - 2) Have permanently installed temperature sensors that have a working range between 32°F and 120°F (App. B) (0°C and 49°C (App. B)), can be seen at all times, and be accurate to within 2° F or 1.1°C.

3) Have an air temperature at the outlet of the refrigerated condenser installed on a dry-to-dry machine, dryer or reclaim $\leq 45^{\circ}\text{F}$ (7°C) during the cool-down period;

4) Have a difference in the air temperatures between the inlet and outlet of a refrigerated condenser installed on a washer $\geq 20^{\circ}\text{F}$ (11°C).

5) Provide a valving system which prevents air drawn into the dry cleaning machine from passing through the refrigerated condenser when the door of the machines is open; and

6) Must not release the air-PCE-vapor stream into the atmosphere while the dry cleaning machine drum is rotating or, if installed on a washer, until the washer door is opened.

j. Requirements for Carbon Adsorbers. Must meet all of the following requirements:

1) Have PCE measurements at the exhaust of the carbon adsorber ≤ 100 ppm (App. B); and

2) Weekly measure and record the concentration of PCE at the outlet of the carbon adsorber using a colorimetric detector tube that is accurate to within 25 ppm.

3) Began monitoring temperature sensors by September 23, 1996, if the PCE dry cleaning system was installed prior to December 9, 1991.

4. Additional Requirements for Major Area Sources.

a. If a dry cleaning system is located at a source which emits 10 tons or more of PCE annually, the source must meet additional requirements in 40 CFR Part 63, Subpart M; and

b. Must comply with sections 4.04 (pg. 4-xx) or 4.05 (pg. 4-xx).

5. A new source must continue to use BACT (App. B) after the requirements of subsection 4.02G2 (pg. 4-xx) are met.

SECTION 5.01 - 3.03 OUTDOOR BURNING AND AGRICULTURAL BURNING

Outdoor burning in Yakima County shall, unless specifically exempted in Section 5.03(D), be conducted only by permit issued by the local responsible jurisdiction and shall be subject to the limitations set forth herein.

A. The issuance of outdoor burning permits for the following activities shall be governed by the Authority, local city, town or fire protection district in which such fire or fires are being conducted:

1. Residential Burning;

2. Outdoor burning of less than 500 tons of residue of natural character such as trees, stumps, shrubbery or other natural vegetation arising from land clearing projects.

3. Agricultural burning as defined in WAC 173-430-030.

B. The issuance of permits for the following outdoor burning shall be governed by the Washington State Department of Natural Resources or by federal authorities for lands under federal control:

1. Abating of forest fire hazard;

2. Prevention of fire hazard;

3. Instruction of public officials in the method of forest fire fighting;

4. Any silviculture operation to improve the forest lands of the state;

5. All silvicultural burning used to promote regeneration of rare and endangered plants found within natural area preserves, as identified under Chapter 79.70 RCW or used to maintain fire dependent ecosystems for rare plants or animals within the state, federal and private natural park area preserves, natural resource conservation areas, parks and other wildlife areas.

C. Except as set forth in subsection 5.03(D) hereof, all other outdoor burning will be governed by permits issued by the Yakima County Clean Air Authority.

D. Except as set forth in subsection 5.03(D) hereof, it is a violation of these Regulations for any person to conduct outdoor burning without obtaining a permit from the responsible jurisdiction as set forth above.

E. Any person requesting a permit from a local responsible jurisdiction, such as local city, town, fire protection district, conservation district or the Authority, for an outdoor burning permit shall pay a fee as governed by the fee schedule of that agency then in effect. The fee schedule in effect for the Yakima County Clean Air Authority is as shown in Article XIII, Section 13.03 of this regulation.

~~SECTION 5.02 – REGULATIONS APPLICABLE TO ALL OUTDOOR BURNING~~

A. The Regulations in this Section are applicable to all outdoor burning whether conducted under the jurisdiction of the Yakima County Clean Air Authority, local cities, towns, fire protection districts or conservation districts, or the Department of Natural Resources.

1. It shall be unlawful for any person to ignite, cause or permit to be ignited or to suffer, allow or maintain any outdoor burning within the jurisdiction of any of the above authorities as provided in Section 5.01 and in addition thereto, it shall be unlawful and not within any of the exemptions of subsection 5.03(D) and Section 5.04 for any person to ignite, cause or permit or suffer to be ignited or allow or maintaining any outdoor burning within any of the jurisdictions described above as follows:

a. Containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, paper (other than what is necessary to start a fire), cardboard, treated wood, construction debris, metal, or any substance other than natural vegetation that normally emits dense smoke or obnoxious odors.

b. During any forecast, alert, warning or emergency condition as defined in RCW 70.94.715.

c. During any impaired air quality condition as defined in RCW 70.94.473.

B. It shall be prima facie evidence that the person who owns or controls property on which outdoor burning occurs has allowed or caused such open fire.

~~SECTION 5.03 – REGULATIONS APPLICABLE TO ALL OUTDOOR BURNING WITHIN THE JURISDICTION OF THE YAKIMA COUNTY CLEAN AIR AUTHORITY, LOCAL CITIES, TOWNS, FIRE PROTECTION DISTRICTS AND CONSERVATION DISTRICTS~~

A. The Yakima County Clean Air Authority finds that it is consistent with its policy of reducing outdoor burning to the greatest extent possible to prohibit outdoor burning in certain areas subject to the exceptions as set forth in subsection 5.03(D) hereof.

B. Except as set forth in subsection 5.03(D) hereof, no outdoor burning shall be allowed in any area of Yakima County, Washington which exceeds federal or state ambient air quality standards for pollutants emitted by outdoor burning which includes the Yakima Urban Area and the city limits of the city of Selah, Washington.

C. Except as provided in subsection 5.03(D) hereof, outdoor burning shall not be allowed in any urban growth area as defined in RCW 36.70(a).030 and RCW 36.70(a).110, or in any city in the Authority's jurisdiction having a population greater than 10,000 persons if:

1. Such areas threaten to exceed state or federal air quality standards; and;

2. Alternative disposal practices consisting of a good solid waste management plan are reasonably available or practices eliminating production of organic refuse are reasonably available.

D. Outdoor burning shall be allowed without permit for:

1. Small outdoor fires on an occasional basis for ceremonial, religious, or cooking purposes or like social purposes;

2. Fires from barbecues, flares, torches, gas burners, incense burners and insect pots;

3. Structure fires for instruction in methods of fire fighting, conducted by fire districts or city fire department or any government controlled fire fighting agency, and outside any urban growth area as defined in RCW 36.70(a).030 and RCW 36.70(a).110, if all of the following conditions are met:

a. The fire conforms with any other permits, licenses, or approvals that are required;

b. The fire is not located in an area that is declared to be in an air pollution episode or any state of an impaired air quality as defined in RCW 70.94.715 and 70.94.473;

c. Nuisance laws are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property;

d. Notice of the fire is provided to the owners of property adjoining the property where the fire will occur, to the persons who potentially will be impacted by the fire;

e. Each structure that is proposed to be set on fire must be identified specifically as a structure to be set on fire. Each other structure on the same parcel of property that is not proposed to be set on fire must be identified specifically as a structure that is not proposed to be set on fire; and

f. Before setting a structure on fire, a good faith inspection is conducted to determine if materials containing asbestos are present, the inspection is documented in writing and forwarded to the Authority, and asbestos that is found is removed prior to the burning.

~~SECTION 5.04 – REGULATIONS APPLICABLE TO PERMITS ISSUED BY THE YAKIMA COUNTY~~

CLEAN AIR AUTHORITY FOR ALL OTHER OUTDOOR BURNING

A. ~~Outdoor burning permits will be issued by the Yakima County Clean Air Authority pursuant to restrictions and limitations on outdoor burning as set forth in these Regulations as follows:~~

~~1. Except as set forth in Section 5.03(D) hereof, agricultural burning to control diseases and insects or developments of physiological conditions conducive to increase crop yield:~~

~~a. All applications for permits to set fire for such agricultural burning shall be acted upon by the Authority within seven (7) days from the date such application is filed.~~

~~b. When burning is necessary to control disease or insect infestation and alternative methods are not available and the Yakima County Agricultural Extension Agency so certifies:~~

~~2. Except as set forth in Section 5.03(D) hereof, instruction in methods of fire fighting conducted by fire districts or city fire departments or any government controlled fire fighting agency.~~

~~B. Permits issued for burning under this Section shall be drafted to minimize emissions, including denial of permission to burn during periods of adverse meteorological conditions:~~

~~C. All permits issued by the Authority will contain conditions to insure that public interest in air, water and land pollution and safety to life and property is fully considered and will be designed to minimize air pollution as practicable.~~

~~D. All applications for permits must demonstrate that the setting of fires as requested is the most reasonable procedure to follow in safeguarding life and property and no other reasonable alternative (as defined in the WAC 173-425) is available to successfully carry out the enterprise in which the applicant is engaged:~~

SECTION 5.05—ADDITIONAL RESTRICTIONS ON OUTDOOR BURNING

All outdoor burning conducted pursuant to this Regulation shall be conducted between the hours of sunrise and sunset, except that burning for pest or disease control or for land clearing purposes, and of which the combustible material consists primarily of wood more than twelve (12) inches in diameter, may be conducted after sunset, but such fires shall not be ignited or fed after 12:00 noon on any day they are ignited. For the purpose of this provision a fire shall be deemed to be out and extinguished when there is not a visible flame coming from the fire.

A. No open burning shall be conducted when the Control Officer, acting on guidelines for air quality control which are hereafter established by the Board, has prohibited such burning by a curtailment call or Ecology has declared an Air Pollution Episode.

1. Any person or entity responsible for an open fire shall immediately proceed to extinguish such fire to prevent visible smoke when notified of the existence of an air pollution episode by any of the means set forth hereafter. Notice will be deemed sufficient to the public for all purposes of these Regulations after three (3) hours have elapsed from the time such notice has been delivered to and published by a newspaper of general circulation in the area where such limitation

applies, or has been delivered to and broadcasted by a radio or television station serving the area, for a small fire and ten (10) hours for the remaining fires.

B. Any person responsible for fires set in accordance with this Section must abide by all rules and procedures set by other agencies having any jurisdiction over the practice of open burning.

A. PURPOSE. To reduce and control outdoor and agricultural burning (*App. A*) and the resulting air pollution. (*Chaps. 173-425 & 173-430 WAC*)

B. APPLICABILITY. (*5.01B*) Applies to all outdoor and agricultural burning on private, county, state, and federal land unless exempted or another public agency has an effective program in place for the control of outdoor and agricultural burning, and the program has been delegated in accordance with subsection 3.03I (pg. 3-xx).

1. This section applies to burning requiring a written permit, a general rule permit, or exempted from permitting.

2. The agricultural burning portions of this section apply only to agricultural operations (*App. A*) and government agencies with burning requirements related to agriculture.

3. Fire fighting training fires are a type of outdoor burning, and subsections 3.03C (pg. 3-xx) and 3.03D (pg. 3-xx) are applicable unless modified or granted a limited exemption in another subsection.

4. This section is not applicable to fire training at enclosed fire training facilities that are permitted under section 4.02 (pg. 4-xx).

5. This section does not apply to silvicultural burning (*App. A*) which is regulated by WCAA (*App. B*), chap. 332-24 WAC, and the Washington state smoke management plan.

C. GENERAL PROVISIONS FOR ALL BURNING. The following applies to all outdoor and agricultural burning unless granted a limited exemption or waived by the APCO (*App. B*). The limited exemptions granted for various types of burning are shown in table 3.03-1 and the footnotes:

1. Prohibitions. Burning is prohibited in the following areas and conditions:

a. Woodsmoke Control Zone (*App. A*). Prohibited during burn bans (*App. A*). The area is described in app. H (pg. H-1).

b. Other Areas. Prohibited during a burn ban in any other geographic area designated by the board.

c. Urban Growth Areas (*App. A*) (5.03C). Prohibited after December 31, 2000, and sooner if a reasonable alternate (*App. A*) disposal method exists for:

1) County-designated urban growth areas; and
2) Cities having a population greater than 10,000 people; (5.03C)

3) Except urban growth areas for cities which have a population less than 5,000 people that are neither within nor contiguous with a nonattainment or former nonattainment area, outdoor burning is prohibited after December 31, 2006.

d. (5.03 B) Yakima urban area as described in app. H (pg. H-2), the city of Selah, and the city of Sunnyside.

e. Burn Ignition. If an individual permit is required in tables 3.03-1 or 2 for any type of outdoor or agricultural burn-

ing, the fire shall not be ignited without first obtaining the permit.

f. Hours of Burning. (5.05) All burning shall be conducted during daylight hours (App. A).

g. Burning Without a Permit or Limited Exemption. (5.01) Burning is not allowed without an individual, annual, or general rule permit unless granted a limited exemption in tables 3.03-1 or 2 and the footnotes for the tables.

2. Requirements. (5.05)

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Demonstration of No Reasonable Alternative. (App. A) (5.04D) Anyone applying for a permit must demonstrate that there is no reasonable alternate for:

1) Safeguarding the environment; and

2) Economic viability.

c. Minimize Adverse Effects. All permits issued by the authority ~~will~~ must contain requirements to insure that public interest in air, water and land pollution and safety to life and property is fully considered and ~~will~~ must be designed to minimize air pollution as practicable. (5.04C) ~~Permits shall be drafted to minimize emissions. This includes the denial of permission to burn during periods of adverse meteorological conditions. (5.04B)~~

d. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

e. Cessation of Burning. (5.05A)

1) During Burn Bans. (5.02A1b&c) No ~~open~~ burning shall may be done when the APCO (App. B) has declared an impaired air quality condition or ecology (App. B) has declared an air pollution episode as described in section 3.05 (pg. 3-xx).

2) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must immediately start extinguishing the fire.

3) Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.

4) Lapse Time to Legally Extinguish Fires During Burn Bans.

a) Land clearing, storm and flood debris, and orchard removal burns shall be extinguished within eight hours of notification of a burn ban.

b) All other burns shall be extinguished within three hours of the notification.

f. Extinguished Fire. (5.05) A fire shall be considered extinguished when there is no visible flame or smoke coming from the fire, and the burned material can be handled with bare hands.

g. Additional Requirements. Additional requirements for various types of burning are listed in subsections 3.03D2 (pg. 3-xx), 3.03E (pg. 3-xx), 3.03F2 (pg. 3-xx), and the footnotes for tables 3.03-1 and 2.

h. Requirements of Other Agencies. (5.05B) Any person responsible for fires must abide by all rules and procedures

set by other agencies having any jurisdiction over outdoor and agricultural burning.

D. SPECIFIC PROVISIONS FOR OUTDOOR BURNING.

1. Prohibitions.

a. Materials. (WAC 173-425-040) (5.02A1a) Materials prohibited from burning:

1) Garbage,

2) Dead animals, or parts of dead animals.

3) Asphalt,

4) Petroleum products,

5) Paints,

6) Rubber products,

7) Plastics,

8) Paper other than what is necessary to start a fire,

9) Cardboard,

10) Treated wood,

11) Construction/demolition debris,

12) Metal, or

13) Any substance that normally emits toxic emissions, dense smoke, or obnoxious odors when burned other than natural vegetation.

b. Hauled Material. Other than firewood (App. A) for use in wood heaters (App. A), ceremonial fires, or recreational fires (App. A), material transported from an area prohibited for outdoor burning may not be burned in another area.

2. Requirements.

a. All Outdoor Burning.

1) When the burn is primarily wood > (App. B) 12 in. dia., the burn must not be ignited or fed after 12:00 noon on the day ignited.

2) Except for ceremonial, residential, tumbleweed, and recreational burning not included in general rule permits, the person doing the burning shall inform the authority of the location, quantity and type of material to burn, and duration for the burn prior to setting the fire.

b. Residential Burning.

1) Must be located on a non-combustible surface not less than 50 feet from buildings, fences, other combustible materials, and other fires.

2) Burn one pile at a time.

3) Pile size must be < (App. B) 4ft. x 4ft. x 3ft. high.

c. Storm and Flood Debris Burning.

1) Material proposed for burning was deposited by a storm that resulted in a declared emergency by a governmental authority.

2) The permit shall contain a time period for the burning.

3) The maximum time limit for this type of burning is two years after the event that deposited the debris.

4) The following variables shall be considered in determining an appropriate maximum time limit after the flood event:

a) Size of the material and the amount of drying time needed to create good burning conditions with lower emissions; and

b) Time of year that the storm event occurred.

E. ADDITIONAL SPECIFIC PROVISIONS FOR FIRE FIGHTING TRAINING FIRES.

1. Applicability. Subsection 3.03E (pg. 3-xx) is applicable to any fire department, business, or organization (App. A)

using fire fighting training fires or any business using a fire to demonstrate fire equipment.

2. Requirements for All Training Fires.

a. Must comply with any other permits, licenses, or approvals that are required;

b. Must not be located in an area that is declared to be in an air pollution episode or impaired air quality condition;

c. Nuisance (App. A) laws are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property; and

d. Notify the authority of the type and location of each fire prior to starting the training fire.

3. Additional Requirements for Structural or Natural Vegetation Training Fires. (5.03D3)

a. These types of training fires are not allowed for a business demonstrating fire equipment.

b. Notice of the fire is provided to the owners of property adjoining the property, and to the persons who potentially will be impacted;

c. On each parcel of land where an exercise is planned each structure to be burned or not burned must be identified to the authority, and;

d. A good faith inspection survey according to subsection 3.07F (pg. 3-xx) is must be conducted to determine if materials containing asbestos are present in the structures, the inspection is must be documented in writing and forwarded to the authority, and asbestos that is found is must be removed prior to the burning.

4. Additional Requirements for Aircraft Crash Rescue Fire Training.

a. Participants in these training fires must be limited to fire fighters who provide support to an airport which is:

1) Certified by the FAA (App. B); or

2) Operated to support military or governmental aviation.

b. Number of training fires allowed per year without a permit is the minimum number required by FAA or other federal safety requirements.

c. The facility must use current technology and be operated in a manner that will minimize the release of air pollutants during the fire training.

d. Prior to the initial training exercise, written approval must be obtained from the authority.

3. Permitting and Limited Exemptions. The types of permits required and limited exemptions granted are shown in table 3.03-1.

F. SPECIFIC PROVISIONS FOR AGRICULTURAL BURNING.

1. Prohibitions. No additional prohibitions.

2. Requirements.

a. A farmer must show that the burning is a BMP (App. B), or necessary to a successful operation; and there is no reasonably available practical alternative.

b. Burning is limited to natural vegetation.

c. Natural vegetation intended for agricultural burning may be transported to a stockpile site for drying and future

burning providing there is no prohibition for burning at the stockpile site.

d. Burning must be done only when the wind will take the smoke away from roads, homes, population centers, and other public areas.

e. Prior to igniting a burn, the farmer must provide the authority with the location, size, and type of material for each burn.

f. Farmers who fail to report burns may have an annual permit canceled.

G. LIMITED EXEMPTIONS.

1. All Burning.

a. Individual Permit Required. The specific exemptions will be established in the permit after discussing the burn, the prohibitions, and the requirements with the proponent.

b. General Rule Permits and Permits Not Required. Limited exemptions are identified in subsections 3.03G2&3 (pg. 3-xx), table 3.03-1, the footnotes for these tables, and general rule permits located at the end of this section.

2. Outdoor Burning.

a. Diseased animals may be burned when a health officer orders the burning of all or part of the animal or other infected material to stop the spread of a disease infestation.

b. Dangerous materials may be burned when a fire protection authority orders the burning of dangerous materials because there is no approved alternative method of disposal.

3. Agricultural Burning. All exemptions are identified elsewhere.

H. WAIVERS. The APCO (App. B) may grant a written waiver for a specific subsection if the waiver will:

1. Create no more air pollution than the requirements of the subsection; and

2. Create no adverse environmental, health, or public safety effects;

3. The waiver document must contain:

a. The specific conditions of the waiver;

b. A duration of no more than 30 consecutive days; and

c. The signature of the owner or operator of the property indicating agreement to the conditions of the waiver.

4. Waivers will not be extended.

I. PROGRAM DELEGATIONS. Table 3.03-2 shows which types of agencies or businesses the authority may use to implement outdoor and agricultural burning programs if the co-operating agency/business complies with this subsection.

1. Permitting by Other Agencies. A local, county, state, or federal agency may qualify for a residential and recreational outdoor burning permit program if:

a. The agency agrees to accept all of the outdoor burning program available for permitting as shown in table 3.03-2;

b. The agency enters into a written agreement with the authority to adopt and enforce the regulations of the authority;

c. The authority finds that agency program is as or more effective;

d. The agency provides annual reports by Feb. 1st of each year which describe:

1) Total number of permits issued;

2) Total number of complaints received;

- 3) Total number of NOV (App. B) issued;
 4) Total number of penalties issued;
 5) Total dollar receipts;
 6) Suggestions for improvement of the program in the future; and

7) An estimate of the total amount of material burned.

2. Issuing Agents.

a. Local, county, state, or federal governmental agencies or businesses may be delegated the authority to issue residential burning permits after signing a written agreement defining the administrative procedures for the issuance of permits.

b. The compliance and enforcement responsibility for these permits remains with the authority.

c. Violations or non-performance of the agreement may result in the cancellation of the vending agreement or a citation issued under article 5.

I. PERMITTING BY THE AUTHORITY. The authority shall use individual, annual, or general rule permits to authorize all forms of burning which require permits.

1. Individual Permits. Written or verbal individual permits shall be used when:

a. Permits are required by law or regulation;

b. The permits are needed for a specific burning events;

c. The authority believes the proposed burn needs specific requirements or prohibitions that are not available from an annual or general rule permit;

d. The proposed burn can not meet all of the conditions of an annual or general rule permit, or

e. The permit fee is based on the specific conditions of the burn.

2. Annual Permits. Written annual permits shall be used when:

a. Permits are required by law or regulation;

b. All the requirements for burning during the year can be identified in the permit; and

c. The same annual permit fee is charged for all similar permits.

3. General Rule Permits. General rule permits are appropriated when an individual or annual permit is not required, but the authority believes some controls are needed to minimize air pollution.

a. General rule permits have no fees.

b. A person using a general rule permit must comply with all conditions of the permit or obtain an individual or annual permit.

c. The following general rule permits are adopted and included in the regulation:

1) General Rule Permit No. 3.03 - 1, Structural Fire Training Outside of Urban Growth Areas (pg. 3-xx);

2) General Rule Permit No. 3.03 - 2, Wildland Training Fires (pg. 3-xx);

3) General Rule Permit No. 3.03 - 3, Flammable Liquid or Gas Training Fires (pg. 3-xx);

4) General Rule Permit No. 3.03 - 4, Other Training Fires (pg. 3-xx); and

5) General Rule Permit No. 3.03 - 5, Large Recreational Fires (pg. 3-xx);

4. Specific Permit Conditions. Special permit conditions may be added to a written or general rule permit to

include additional requirements beyond the requirements of section 3.03. They may include any of the following:

a. All Burning.

1) Restricting the hours of burning;

2) Restricting burning to a defined season;

3) Restricting the size of fires;

4) Imposing requirements for good combustion practice;

or

5) Restricting burning to specified weather conditions.

6) The permittee agrees to allow the APCO to enter his/her property to conduct an investigation as defined in subsection 2.01C (pg. 2-xx).

b. Agricultural Burning.

1) Requiring the use of all or part of the agricultural burning BMPs established by the ag task force (App. A).

2) Encouraging the use of locally approved BMPs for specific crops.

5. Permit Duration.

a. Annual permits expire Dec. 31st of the current calendar year.

b. General rule permits adopted into the regulation have an indefinite duration. These remain available for use until rescinded or modified by the regulation adoption process.

c. All other permits expire 30 days maximum from the date of issuance unless approved for an alternate duration.

d. Permits other than annual permits may be extended for an additional 30 days for due cause by the APCO.

6. Permit Conditions Added after Issuance. If additional limitations are needed to prevent air pollution and/or protect property, health, safety, and comfort of persons from the effects of burning;

a. The authority shall amend an individual or annual permit; and

b. The authority must notify the permittee or responsible person of the limitations.

c. Any limitation imposed will become a condition of the permit.

7. Permit Application Process. Permit applications are available from the authority during normal working hours. The application may be submitted in person or by mail, and it must be accompanied by the application fee when one is required.

K. FEES (5.01 E)

1. Any person requesting granted an individual permit from a local responsible jurisdiction, such as local city, town, fire protection district, conservation district or the authority, for an outdoor burning permit, shall pay a fee as shown in governed by the current fee schedule of that agency adopted by the board, then in effect. The fee schedules in effect for the Yakima County Clean Air Authority is as shown in Article XIII, Section 13.03.

2. General rule permits have no fees.

3. Annual agricultural burning permit fees are non-refundable unless the permittee can establish and the authority agrees that the following events happened:

a. The permitted agricultural burning did not occur;

b. The need for the burning was replaced by another treatment; and

c. The burning will not occur in the future.

PROPOSED

Table 3.03-1 Limited Exemptions, Types of Permitting, and Specific Requirements for All Types of Burning.

See footnotes at the end of the table.

Type of Burning	Type of Burning Permit Required a	Types of Burning Where Limited Exemptions are Granted		
		Prohibited Areas Sub 3.03C1 b	Hours of Burning Sub 3.03C1f c	Prohibited Materials Sub 3.03D1a & F2b d
Outdoor Burning				
1. Ceremonial Fires	Individual	1/	1/	No
2. Fire fighting training fires				
2.1 Structural training fires				
2.11 Inside an urban growth area	Individual	Yes	Yes	2/
2.12 Outside an urban growth area	GRP No. 3.03 - 1	Yes	Yes	2/
2.2 Wildland training fires	GRP No. 3.03 - 2	Yes	Yes	No
2.3 Flammable liquid or gas training fires	GRP No. 3.03 - 3	Yes	Yes	2/
2.4 Other training fires	GRP No. 3.03 - 4	Yes	Yes	2/
2.5 Aircraft crash rescue training fires	N/A	Yes	Yes	Yes
3. Land clearing fires	Individual	No	1/	No
4. Rare & endangered plant regeneration fires.	Individual	1/	1/	No
5. Recreational fires				No
5.1 Large recreational fires	GRP No. 3.03 - 5	3/	4/	
5.2 Other recreational fires	None	No	Yes	
5.3 Home barbecues	None	5/	Yes	
6. Residential	Annual	No	No	No
7. Silvicultural	N/A	N/A	N/A	N/A
8. Storm or flood debris	Individual	1/	1/	No
9. Tumbleweed	None	No	No	No
10. Weed abatement	Individual	1/	No	No
11. Other outdoor burning 6/	Individual	1/	1/	1/
Agricultural Burning				
12. Fence rows and windblown vegetation	None 7/	No	8/	No
13. Irrigation or drainage ditches	None 7/	No	8/	No
14. Orchard management		No		No
14.1 Orchard prunings	None 7/		8/	
14.2 Orchard removal	Individual		1/	
15. Annual agricultural burning	Annual	No	No 8/	No
16. Other agricultural burning 9/	Individual	1/	8/	1/
Training Fires Not Considered Outdoor Burning				
17. Fires conducted inside a fire training facility subject to a NSR approval order	None	N/A	N/A	N/A

Footnotes for table 3.03-1:

- Yes - Limited exemption is granted.
- No - Limited exemption is not granted
- None - No permit is required
- Individual - Individual permit required for a specific burn.
- N/A - Not Applicable because the authority does not regulate this type of burning
- GRP - General Rule Permit.
- Annual - Annual residential or agricultural burning permit.
- 1/ Shall be identified in the permit issued by the authority.
- 2/ The burning of prohibited materials is limited to those materials and quantities needed for effective training.
- 3/ Nonprofit organizations are granted a limited exemption. There is no exemption for other groups or persons.

- 4/ A limited exemption for the hours of burning is granted, but the fire must be extinguished within three hours after the end of the event or use.
- 5/ Fueled only with charcoal, LP gas, natural gas, pellets, or natural fuels.
- 6/ Includes any type of outdoor burning not included in the table.
- 7/ Incidental quantities without permitting.
- 8/ When night burning is accepted by the ag task force (App. A) as a BMP (App. B).
- 9/ Includes any type of agricultural burning not included in the table

PROPOSED

Table 3.03-2 Forms of Delegation for All Types of Burning.

See footnotes at the end of the table.

Type of Burning	Permitting Information				
	Delegated to the Authority a	Type of Burning Permit Required b	Form of Delegation from the Authority		
			Retained by the Authority c	Permitting Program Available d	Permit Vending e
Outdoor Burning					
1. Ceremonial fires	Yes	Individual	No	Yes	No
2. Fire fighting training fires	Yes	Individual GRP No. 3.03 - 1 GRP No. 3.03 - 2 GRP No. 3.03 - 3 GRP No. 3.03 - 4 None	Yes	No	No
2.1 Structural training fires					
2.11 Inside urban growth areas					
2.12 Outside urban growth areas					
2.2 Wildland training fires					
2.3 Flammable liquid or gas training fires					
2.4 Other training fires					
2.5 Aircraft crash rescue training fires					
3. Land clearing	Yes	Individual	Yes	No	No
4. Rare & endangered plant regeneration fires	Yes	Individual	Yes	No	No
5. Recreational fires	Yes	GRP No. 3.03 - 5 None None	Yes	No	No
5.1 Large recreational fires					
5.2 Other recreational fires					
5.3 Home barbecues					
6. Residential	Yes	Annual	No	Yes	Yes
7. Silvicultural	No	N/A	N/A	N/A	N/A
8. Storm or flood debris	Yes	Individual	Yes	No	No
9. Tumbleweed	Yes	None, 1/	No	Yes	No
10. Weed abatement	Yes	Individual	No	Yes	No
11 Other outdoor burning 2/	Yes	Individual	Yes	No	No
Agricultural Burning					
12. Fence rows and windblown vegetation	Yes	None, 3/	Yes	No	No
13. Irrigation or drainage ditches	Yes	None, 3/	Yes	No	No
14. Orchard management	Yes	None, 3/ Individual	Yes	No	No
14.1 Orchard prunings					
14.2 Orchard removal					
15. Annual agricultural burning	Yes	Annual	Yes	No	No
16. Other agricultural burning 4/	Yes	Yes	Yes	No	No
Training Fires Not Considered Outdoor Burning					
17. Fires conducted inside a fire training facility subject to a NSR approval order	Yes	None	Yes	No	No

Footnotes for table 3.03-2:

None - No permit is required

Individual - Individual permit required for a specific burn.

N/A - Not Applicable because the authority does not regulate this type of burning

GRP - General Rule Permit.

Annual - Annual residential or agricultural burning permit.

1/ Applies when only tumbleweeds are burned in the fire.

2/ Includes any type of outdoor burning not included in the table.

3/ Incidental quantities without permitting.

4/ Includes any type of agricultural burning not included in the table.

PROPOSED

Table 3.03-3 Notification Requirements Before Burning

See footnotes at the end of the table

Type of Burning	Type of Burning Permit Required a	Prior Notification Required Before Igniting the Fire	
		Authority b	Neighbors c
Outdoor Burning			
1. Ceremonial fires	Individual	No	No
2. Fire fighting training fires			
2.1 Structural training fires			
2.11 Inside an urban growth area	Individual	Yes	1/
2.12 Outside an urban growth area	GRP No. 3.03 - 1	Yes	Yes, 2/
2.2 Wildland training fires	GRP No. 3.03 - 2	Yes	Yes, 2/
2.3 Flammable liquid or gas training fires	GRP No. 3.03 - 3	Yes	Yes, 2/
2.4 Other training fires	GRP No. 3.03 - 4	Yes	Yes, 2/
2.5 Aircraft crash rescue training fires	N/A	Yes, 3/	No
3. Land clearing fires	Individual	Yes	1/
4. Rare & endangered plant regeneration fires	Individual	Yes	1/
5. Recreational fires	GRP No. 3.03 - 5		
5.1 Large recreational fires	None	Yes	Yes
5.2 Other recreational fires	None	No	No
5.3 Home barbecues		No	No
6. Residential	Annual	No	No
7. Silvicultural	N/A	N/A	N/A
8. Storm or flood debris	Individual	Yes	1/
9. Tumbleweed	None	No	No
10. Weed abatement	Individual	Yes	1/
11. Other outdoor burning	Individual	Yes	1/
Agricultural Burning			
12. Fence rows and windblown vegetation	None, 4/	No	No
13. Irrigation or drainage ditches	None, 4/	No	No
14. Orchard management			
14.1 Orchard prunings	None, 4/	No	No
14.2 Orchard removal	Individual	Yes	1/
15. Annual agricultural burning	Annual	Yes	No
16. Other agricultural burning	Individual	Yes	1/
Training Fires Not Considered Outdoor Burning			
Type of Burning	Type of Burning Permit Required a	Prior Notification Required Before Igniting the Fire	
		Authority b	Neighbors c
17. Fires conducted inside a fire training facility subject to a NSR approval order	None	5/	5/

Footnotes

- 1/ As required in the individual permit.
- 2/ As required by the general rule permit.
- 3/ Written approval required prior to the first training exercise.
- 4/ Incidental quantities without a permit.
- 5/ As required in the NSR approval order.

Reviser's note: The spelling 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.

**GENERAL RULE PERMIT NO. 3.03 - 1
STRUCTURAL FIRE TRAINING OUTSIDE OF URBAN GROWTH AREAS**

A. PURPOSE. To control emissions from structural training

fires and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY.

1. Any fire department (*App. A*) planning to conduct structural training fire outside of an urban growth area.
2. The owner or operator of the land where the training fire is conducted.

C. REFERENCES. Sections 3.01 (pg. 3-xx), 3.03 (pg. 3-xx), 3.05 (pg. 3-xx), and 3.07 (pg. 3-xx).

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. (3.03C)

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

PROPOSED

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. During Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or ecology has declared an air pollution episode as described in section 3.05 (pg. 3-xx).

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.

3) Lapse Time. The fire must be extinguished within three hours of notification of a burn ban.

2. Specific. (3.03D & E)

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a is limited to those materials and quantities needed for effective structural training fire.

b. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property

c. Structure Identification. On each parcel of land where an exercise is planned each structure to be burned or not burned must be identified to the authority.

d. Asbestos Survey and Removal. A survey is conducted in accordance with subsection 3.07F (pg. 3-xx) to determine if materials containing asbestos are present in the structures, the survey is documented in writing and forwarded to the authority.

e. Asbestos Removal. Asbestos that is found is removed prior to the burning.

F. NOTIFICATION. (3.03D2a2) Prior to the start of the training the fire department conducting the training fire shall inform:

1. The authority of the location, quantity and type of material to burn, and duration for the training fire; and

2. The owners of property adjoining the property, and persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. (3.03C3i) Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

H. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and the following are the remedies for a violation:

1. Voiding any further training fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or;

2. Compliance and enforcement action under article 5.

GENERAL RULE PERMIT NO. 3.03 - 2 WILDLAND TRAINING FIRES

A. PURPOSE. To control emissions from wildland training fires and to satisfy the permitting requirements by a general rule..

B. APPLICABILITY.

1. Any fire department planning to conduct wildland training fires.

2. The owner or operator of the land where the training fire is conducted.

3. This general rule permit is not applicable to the following:

a. Silvicultural burning administered by the DNR, or;

b. Burning structures at the location of a wildland training fire.

C. REFERENCES. Sections 3.01 (pg. 3-xx), 3.03 (pg. 3-xx), and 3.05 (pg. 3-xx).

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. (3.03C)

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. During Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or ecology has declared an air pollution episode as described in section 3.05 (pg. 3-xx).

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.

3) Lapse Time. The fire must be extinguished within eight hours of notification of a burn ban.

2. Specific. (3.03D & E)

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a (pg. 3-xx) is prohibited.

b. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property

c. Land Identification. Each parcel of land where an exercise is planned must be identified to the authority.

F. NOTIFICATION. (3.03D2a2) Prior to the start of the training fire the fire department conducting the training shall inform:

1. The authority of the location, quantity and type of material to burn, and duration for the training fire; and

2. The owners of property adjoining the property persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. (3.03C3i) Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

H. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and the following are the remedies for a violation:

1. Voiding any further training fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or:
2. Compliance and enforcement action under article 5.

**GENERAL RULE PERMIT NO. 3.03 - 3
FLAMMABLE LIQUID OR GAS TRAINING FIRES**

A. PURPOSE. To control emissions from flammable or gas liquid fires for training or demonstrating the proper use of fire equipment and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY.

1. Any fire department conducting flammable liquid or gas training fires;
2. Any company demonstrating the use of fire suppression equipment; or
3. Any company or organization training employees in the use of fire extinguisher; and
4. The owner or operator of the land where the training fire is conducted.

C. REFERENCES. Sections 3.01 (pg. 3-xx), 3.03 (pg. 3-xx), and 3.05 (pg. 3-xx).

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. (3.03C)

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. During Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or ecology has declared an air pollution episode as described in section 3.05 (pg. 3-xx).

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.

3) Lapse Time. The fire must be extinguished within 15 minutes of notification of a burn ban.

2. Specific. (3.03D & E)

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D 1a is limited to those materials and quantities needed for effective structural training fire.

b. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property

c. Container for the Fire. The training fire is contained within a noncombustible container or apparatus ≤ 4 ft. x 4 ft. in size.

F. NOTIFICATION. (3.03D2a2) Prior to the start of the training the person doing the training or demonstration shall inform:

1. The authority of the location, quantity and type of material to burn, and duration for the training fire; and
2. The owners of property adjoining the property, and to the persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. (3.03C3i) Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

H. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and the following are the remedies for a violation:

1. Voiding any further training fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or:
2. Compliance and enforcement action under article 5.

**GENERAL RULE PERMIT NO. 3.03 - 4
OTHER TRAINING FIRES**

A. PURPOSE. To control emissions from other training fires and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY.

1. Any fire department planning to conduct a training fire < 10 ft. x 10 ft. x 8 ft. high in size which is not covered by another general rule permit; and
2. The owner or operator of the land where the training fire is conducted.
3. This general rule permit is not applicable for training fires which do not meet all the requirements of this general rule.

C. REFERENCES. Sections 3.01 (pg. 3-xx), 3.03 (pg. 3-xx), and 3.05 (pg. 3-xx).

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. (3.03C)

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. During Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or ecology has declared an air pollution episode as described in section 3.05 (pg. 3-xx).

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.

3) Lapse Time. The fire must be extinguished within three hours of notification of a burn ban.

2. Specific. (3.03D & E)

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a (pg. 3-xx) is limited to those materials and quantities needed for effective training fire.

b. Structures. The burning of any structure under this general rule permit is prohibited.

c. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property.

F. NOTIFICATION. (3.03D2a2) Prior to the start of the training fire the fire department shall inform:

1. The authority of the location, quantity and type of material to burn, and duration for the training fire; and

2. The owners of property adjoining the property, and to the persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. (3.03C3i) Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

H. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and the following are the remedies for a violation:

1. Voiding any further training fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or:

2. Compliance and enforcement action under article 5.

**GENERAL RULE PERMIT NO. 3.03 - 5
LARGE RECREATIONAL FIRES**

A. PURPOSE. To control emissions from large recreational fires and fires at exhibits, and to satisfy the permitting requirements by a general rule.

B. APPLICABILITY. This general rule is applicable for any a recreational or exhibition fire > 3 ft. in dia. and 2 ft. high which is intended for any of the following uses:

1. Nonprofit organizations conducting social, athletic, or religious events;

2. Persons having a recreational fire in a location that is not prohibited; or

3. Persons using fires for exhibits at public even; and

4. The rule is applicable to the owner or operator of the land where the large recreational fire occurs.

C. REFERENCES. Sections 3.01 (pg. 3-xx), 3.03 (pg. 3-xx), and 3.05 (pg. 3-xx).

D. DURATION. Indefinite.

E. REQUIREMENTS.

1. General. (3.03C)

a. Confirmation of Daily Burning Status. Prior to igniting the fire and each subsequent day, the person supervising the fire must confirm the burn ban status.

b. Supervision of the Fire. The fire must be supervised by a person who is responsible for and capable of extinguishing the fire. The fire must not be left unattended.

c. During Burn Bans. No burning may be done when the APCO has declared an impaired air quality condition or ecology has declared an air pollution episode as described in section 3.05 (pg. 3-xx).

1) Extinguishing the Fire. When burning is prohibited the person responsible for the fire must extinguish the fire.

2) Notification. Notification of the prohibition of burning is done by publishing a notice in a newspaper of general circulation in the area, and broadcasting the notice on radio or television stations.

3) Lapse Time. The fire must be extinguished within three hours of notification of a burn ban.

2. Specific. (3.03D & E)

a. Prohibited Materials. The burning of prohibited materials listed in subsection 3.03D1a is prohibited.

b. Prohibited Areas. A limited exemption for subsection 3.03C1 (pg. 3-xx) may be granted by the APCO if the proponent presents an acceptable proposal.

c. Prohibited Hours.

1) Persons conducting these types of fires are granted a limited exemption from subsection 3.03C1e (pg. 3-xx) to conduct the fire after sunset, but

2) The fire must be extinguished within three hours after the end of the event or use.

d. Nuisance Rules. These rules are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property

e. Location of Fire. Located on a non-combustible surface not less than 50 feet from buildings, fences, other combustible materials, and other fires or 500 ft. from forest slash.

f. Maximum Size of the Fire. The maximum size of the fire is 10 ft. x 10 ft. x 8 ft.

F. NOTIFICATION. (3.03D2a2) Prior to the start of the large recreational fire the person conducting the fire shall inform:

1. The authority of the location, quantity and type of material to burn, and duration for the fire; and

2. The owners of the adjoining property and the persons who potentially will be impacted.

G. REQUIREMENTS OF OTHER AGENCIES. (3.03C3i) Any person responsible for fires must abide by all rules and procedures set by other agencies having any jurisdiction over outdoor burning.

H. VIOLATIONS. Failure to comply with the requirements of this general rule permit is a violation, and the following are the remedies for a violation:

1. Voiding any further recreational or exhibition fires under general rule permits and obtaining individual written permits with the appropriate requirements and fees and/or:

2. Compliance and enforcement action under article 5.

3.04 WOODSTOVES AND FIREPLACES WOOD HEATERS

A. PURPOSE (9.01) Without limiting the power of the Yakima County Clean Air Authority or its Director or Agents, the Authority states that it shall be its policy, to the extent that it is compatible with the enforcement of the regulations, to instruct and educate the public and violators of the

hazards to health caused by woodsmoke, and to authorize educational materials concerning those dangers. To define a program to control and reduce woodsmoke emissions from wood heaters.

B. APPLICABILITY (New section) This section applies to any device which burns wood, wood products, or other non-gaseous or nonliquid fuels and is rated less than one million Btu per hour.

**C. LIMITATIONS ON SALES, ADVERTISE-
MENT, AND INSTALLATION OF SOLID FUEL
BURNING DEVICES, WOOD HEATERS. (9.04)**

A. After January 1, 1992, no used solid fuel burning devices shall be installed in new or existing buildings unless such device is either Oregon Department of Environment Quality Phase II or EPA certified, or a pellet stove either certified or exempt from certification by the EPA or a fireplace furnace with a letter of exemption from the Washington State Department of Ecology and the United States Environmental Protection Agency.

B. SOLID FUEL BURNING DEVICES.

After January 1, 1995, a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a solid fuel burning device unless it has been certified and labeled in accordance with procedures and criteria specified in "40 CFR 60 Subpart AAA—Standards of Performance for Residential Wood Heaters" as amended through July 1, 1990, and meets the following particulate air contaminant emission standards and the test methodology of the EPA in effect on January 1, 1991, or an equivalent standard under any test methodology adopted by the EPA subsequent to such date:

1. Two and one-half (2 1/2) grams per hour for catalytic woodstoves; and

2. Four and one-half (4 1/2) grams per hour for all other solid fuel burning devices.

3. For purposes of this subsection, "equivalent" shall mean the emissions limits specified in this subsection multiplied by a statistically reliable conversion factor determined by ecology that relates the emission test results from the methodology established by the EPA prior to May 15, 1991, to the tests results from the methodology subsequently adopted by that agency.

C. FIREPLACES.

After January 1, 1997, a person shall not advertise to sell, offer to sell, sell, bargain, exchange, or give away a factory built fireplace unless it meets the 1990 EPA standards for woodstoves or equivalent standard that may be established by the state building code council by rule. Subsection 9.04(A) shall not apply to fireplaces, including factory built fireplaces, and masonry fireplaces.

1. Restrictions on Advertisement and Sale.

a. Uncertified wood heaters shall not be advertised or sold.

b. Any wood heater offered for sale shall meet the following PM (App. A) emission standards:

(1) Catalytic wood heaters - ≤ 2.5 grams/hr.

(2) All other wood heaters - ≤ 4.5 grams/hr.

2. Restrictions on Installation. Uncertified wood heaters shall not be installed. The enforcement of the installation requirements may also be enforced by other agencies.

3. Educational Materials. (9.04D) (WAC 173-433-110(5)) Persons Retailers who selling new solid-fuel heating devices wood heaters shall distribute must provide and verbally explain educational materials to customers. purchasing new wood stoves describing when a stove can and cannot be legally used. The educational information should include that opacity levels of ten percent or less can be achieved through proper operation. If necessary, the retailer should verbally explain the educational materials to assure that the purchaser understands the information.

4. Installation of Uncertified Wood Heaters. (OAPCA Reg I, 8.15) (App. B) It is unlawful to install an uncertified wood heater, unless granted a limited exemption in subsection 3.04D (pg. 3-xx), in new or existing buildings or structures. Uncertified wood heaters installed after January 1, 1992, are a violation of this subsection and must be promptly removed from the structure.

5. Sale and Disposal of Uncertified Wood Heaters. (OAPCA Reg I, 8.17) When an uncertified wood heater is to be permanently removed from its location it shall be made inoperable. A removed uncertified wood heater shall not be sold, bartered, traded, or given away for a purpose other than recycling of the materials.

D. LIMITED EXEMPTIONS (9.04E) The following solid fuel devices wood heaters shall be are granted a limited exemption from the requirements of Section 9.04B of subsections 3.04C4 & 5 (pg. 3-xx):

1. Boilers (App. A);

2. Furnaces (App. A);

3. Cookstoves, Antique Wood Stoves and Heaters. Antique wood cookstoves and heaters manufactured prior to 1940 may be installed and used in the manner of their original design. (1997 UBC, WAC 51-40-510.3) (App. B).

4. Historic Sites. Any building or structure listed on the National Register of Historic Sites or on the Washington State Register of Historic Places is allowed to burn wood, coal, or wood products in the same manner as when it was a functional facility. Use will not be permitted during a burn ban as described in section 3.05 (pg. 3-xx).

5. Existing Uncertified Wood Heater. Owners of uncertified wood heaters installed prior to January 1, 1992 may continue to use these devices at the original locations as long as they meet the provisions of the general requirements in subsection 3.04E (pg. 3-xx).

E. GENERAL REQUIREMENTS.

1. Opacity. (9.02) No person owning, operating or in control of a residential solid fuel burning device shall cause, allow or discharge to the ambient air any emissions from such device which are of an opacity greater than twenty percent (20%) except for the purposes of public education, then the opacity level shall not be greater than ten percent (10%). It is a violation to operate a wood heater in a manner that emits a smoke plume exceeding the opacity standard. The standard and test procedures are stated in app. D.

2. Prohibitive Fuel Types (9.03) A person shall not cause or It is prohibited to allow any of the following materials to be burned in a solid fuel burning device wood heater:

a. Garbage;

- b. Treated wood;
- c. Plastic and plastic products;
- d. Rubber products;
- e. Animals; Dead animals, or parts of dead animals;
- f. Asphaltic products;
- g. Waste petroleum products;
- h. Paints and chemicals, or;
- i. Any substance, other than properly seasoned wood and paper used to start the fire, ~~Fuel~~ which normally emits dense smoke or obnoxious odors.

3. Burning During Burn Bans. Wood heaters must not be used during a burn ban as describe in section 3.05 (pg. 3-xx). Smoke visible from a chimney, flue or exhaust duct constitutes evidence of unlawful operation. This presumption may be refuted by demonstration that the smoke was not caused by a wood heater. The provisions of this requirement are enforceable on a complaint or surveillance basis.

4. General Standards. Wood heaters may not be operated in violation of subsections 3.01C1d (pg. 3-xx) and 3.01C1e (pg. 3-xx).

3.05 PROHIBITION OF VISIBLE EMISSIONS DURING AIR POLLUTION EPISODE BURN BANS (9.05)

A. PURPOSE.

- 1. To prevent and avoid increasing unhealthy ambient air quality conditions.
- 2. To define the legal conditions for outdoor and agricultural burning and the use of wood heaters during burn bans (App. A).

B. APPLICABILITY. Applies to all outdoor and agricultural burning, and wood heater use unless exempted elsewhere in this section.

C. DECLARATION AND CRITERIA.

1. Impaired Air Quality. This is declared and terminated by the APCO (App. B), and it applies to:

- a. The woodsmoke control zone as defined in app. H (pg. H-xx) and shown on the map in app. I (pg. I-2); and/or
- b. Any other area defined by the board.
- c. It indicates air contaminants above threshold levels (App. A) in table 3.05-1.

Table 3.05-1 Ambient Air Threshold Levels for an Impaired Air Quality Event

Pollutant	Threshold Level	
	First or Yellow Stage	Second or Red Stage
PM ₁₀ (App. B)	> 60 µg/m ³ (App. B) for a 24 hour average	> 105 µg/m ³ for a 24 hour average
CO (App. B)	> 8 ppm for an 8 hour average	No Level

2. Air Pollution Episodes. These are declared during meteorological conditions when there is a possible danger

that normal operations at air contaminant sources will be detrimental to public health and safety.

a. Stages. The four stages of an air pollution episode are forecast, alert, warning, and emergency.

b. Declaration and Termination. The director of ecology may declare and terminate the first three stages. Only the governor may declare and terminate the emergency stage of an episode.

D. REQUIREMENTS.

1. Outdoor and Agricultural Burning. Extinguish all burning as required in subsection 3.03C2 (pg. 3-xx) and do not ignite any burns.

2. Fire Training Fires. Do not ignite these fires.

3. Wood Heaters. (9.05A1) Any person in a residence or commercial establishment which has an adequate source of heat other than a SFBD wood heater shall burn the wood heater according to table 3.05-2.

e. Not use any SFBD whenever the Department of Ecology or the Authority has determined under RCW 70.94.715 that any Air Pollution Episode exists in that area.

b. Not use any solid fuel burning device except those which are either Oregon Department of Environmental Quality Phase II or United States Environmental Protection Agency certified or certified by the Department of Ecology under RCW 70.94.457(1) or a pellet stove either certified or issued an exemption by the United States Environmental Protection Agency in accordance with Title 40, Part 60 of the Code of Federal Regulations in the geographic area and for the period of time that a first stage of impaired air quality has been determined by the Department of Ecology or by the Yakima County Clean Air Authority. The geographic area affected by a first stage of impaired air quality is the Woodsmoke Control Zone as defined in Section 1.03(84). A first stage of impaired air quality is reached when particulates ten microns and greater in diameter are at an ambient level of 75 micrograms per cubic meter measured on a 24 hour average or when CO is at an ambient level of 8 parts of contaminant per million parts of air by volume measured on an 8 hour average.

d. Not use any solid fuel burning device, including those that meet the standards set forth in RCW 70.94.457, in any geographic area for the period of time that a second stage of impaired air quality has been determined by the Department of Ecology or the Yakima County Clean Air Authority. The geographic area affected by a second stage of impaired air quality is the Woodsmoke Control Zone as defined in Section 1.03(84). A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of 90 micrograms per cubic meter measured on a 24 hour average or when CO is at an ambient level of 8 parts of contaminant per million parts of air by volume measured on an 8 hour average.

E. EXEMPTIONS.

1. Outdoor and Agricultural Burning. There are no exemptions during a burn ban.

2. Wood Heater is the Only Heat Source. Homes or commercial establishments with no source of adequate heat other than a wood heater are exempt from the prohibition in this section. Adequate heat means a system that can maintain

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a temperature of 70°F (App. B) three feet off the floor in normally inhabited areas of a dwelling when the heater is operating as designed.

Table 3.05-2 Outdoor and Agricultural Burning and Wood Heater Use Permitted in Designated Areas During Burn Bans.
Yes - Burning or use is permitted, No - Burning or use is not permitted.

Type of Burning 1/	Type of Burn Ban			
	Impaired Air Quality		Air Pollution Episode	
	First Stage a	Second Stage b	Forecast c	Alert, Warning, or Emergency d
1. Outdoor	No	No	No	No
2. Agricultural	No	No	No	No
3. Fire Fighting Training Fires	No	No	No	No
4. Wood Heaters				
4.1 Pellet Stove	Yes	No	Yes	No
4.2 EPA Certified Woodstove	Yes	No	Yes	No
4.3 DEQ Phase 2 Woodstove	Yes	No	Yes	No
4.4 EPA Exempted Device	No	No	Yes	No
4.5 Sole Source of Heat	Yes	Yes	Yes	Yes
4.6 All Others	No	No	Yes	No

Footnotes for table 3.05-2

1/ Definitions of types of burning are in app. A.

3.06 CHLOROFLUOROCARBONS STRATOSPHERIC OZONE-DEPLETING CHEMICALS(10.01)

A. PURPOSE. To prevent the unnecessary release of stratospheric ozone-depleting chemicals. The Board recognizes that the release of chlorofluorocarbons into the atmosphere contributes to the destruction of stratospheric ozone and such destruction threatens plant and animal life. The Board further recognizes that unnecessary release of chlorofluorocarbons should be eliminated when such times as chlorofluorocarbon extraction equipment are readily available to local businesses and the Department of Ecology has adopted rules to control chlorofluorocarbon emission sources including performance specifications for chlorofluorocarbon extraction and/or recycling equipment

B. APPLICABILITY.

1. All persons who manufacture, handle, store, use, or dispose of stratospheric ozone depleting chemicals.

2. Those chemicals are listed in section 602 of Title VI of the FCAA.

C. PROHIBITION. The willful release of ozone-depleting chemicals is prohibited.

3.07 ASBESTOS CONTROL (New Section, 5.09E)

E. Asbestos.

No person shall remove or otherwise disturb asbestos, to the extent that asbestos fibers may become airborne, without notifying the Authority ten (10) business days prior to removal. If removal is necessary due to an emergency, the ten day waiting period may be waived by the Authority.

1. Private Residents.

Private homeowners, when removing friable asbestos materials from their normally occupied or will be normally occupied homes, may be required to remove the asbestos materials according to the National Emission Standard for

Hazardous Air Pollutants (NESHAPS) as set forth in Title 40 Code of Federal Regulations part 61, as the same now exists or may be amended. Removal and disposal of non friable asbestos materials shall be conducted in accordance with practices and procedures approved by the Authority.

2. Small Quantity Asbestos Material.

Asbestos Materials in quantities less than 160 square feet or 260 linear feet must be removed and disposed of according to practices and procedures approved by the Authority.

3. Commercial, Industrial or other sources.

No person shall demolish any commercial, institutional, or industrial building, or any residential facility constructed to house four (4) or more families without first performing a thorough inspection, to be conducted by a qualified expert to determine the quantities and types of asbestos materials present. If it is determined that such building contains asbestos, no person shall commence the demolition of such facility without complying with the requirements of NESHAPS, the Federal Rule stated in E (1) above.

4. Fees or Administrative Charges.

Fees associated with this subsection (5.09(E)) shall be in accordance with Article XIII, Section 13.04 of this regulation.

A. PURPOSE. To prevent asbestos emissions from the disturbance of asbestos-containing materials (*) which could jeopardize public health or safety. (SCAPCA Art. IX, Sect. 9.01 → 9.08).

B. APPLICABILITY. This section applies to the use, maintenance, renovation, or demolition of any facility (*) or vessel with ACM (*) or suspect ACM (*). It also applies to any activity which could disturb ACM.

C. COMPLIANCE. In addition to the requirements of this section, all sources are required to comply with the provisions of WAC 173-400-075(1), 40 CFR Part 61, and 40 CFR Part 763. The additional requirements in 40 CFR Part 763 that pertain only to K → 12 public and private schools are not

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included in this regulation, but the source must comply with them.

D. DEFINITIONS. The following are the definitions for words and phrases used only in this section.

1. AHERA (App. B) Building Inspector. A person who has successfully completed the training requirements established by EPA (App. B) for a building inspector and whose certification is current.

2. AHERA Project Designer. A person who has successfully completed the training requirements established by EPA for an abatement project designer and whose certification is current.

3. Asbestos. The asbestiform varieties of actinolite, amosite, tremolite, chrysotile, crocidolite, or anthophyllite.

4. Asbestos-Containing Material (ACM). Any material containing more than one percent (1%) asbestos.

5. Asbestos Project. Any activity involving the abatement, renovation, demolition, removal, salvage, clean-up or disposal of ACM or ACM waste or any other action that disturbs or is likely to disturb any ACM. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released; or the removal of sealants, coatings, and mastic bound in asphalt roofing with no felt layers containing ACM.

6. Asbestos Survey. A written report describing an inspection using the procedures in EPA regulations, or an alternate method that has received the prior written approval from the APCO (App. B), to determine whether materials or structures to be worked on, renovated, removed, or demolished contain asbestos (*).

7. Competent Person. A person who is capable of identifying asbestos hazards and selecting the appropriate asbestos control strategy; has the authority to take prompt corrective measures to eliminate the hazards; and has been trained and is currently certified in accordance with the standards established by L&I (App. B), OSHA (App. B), or EPA. (App. B)

8. Component. Any equipment, pipe, structural member, or other item covered or coated with, or manufactured from ACM.

9. Demolition. Wrecking, razing, leveling, dismantling, or burning of a structure, and making the structure permanently uninhabitable or unusable.

10. Facility. Any institutional, commercial, public, industrial, or residential structure, installation, or building.

11. Friable Asbestos-Containing Material. ACM that, when dry, can be crumbled, disintegrated, or reduced to powder by hand pressure.

12. Glove Bag. A sealed compartment with attached inner gloves used for the handling of ACM. Properly installed and used, glove bags provide a small work area enclosure typically used for small-scale asbestos stripping operations.

13. Leak-Tight Container. A dust and liquid tight container at least 6-mil thick that encloses ACM waste and prevents solids or liquids from escaping. Such containers may

include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic bags.

14. Nonfriable Asbestos-Containing Material. ACM that, when dry, cannot be crumbled, disintegrated, or reduced to powder by hand.

15. Owner-Occupied, Single-Family Residence. Any non-multiple unit building containing living space that is currently occupied by one family who owns the property as their domicile. This includes houses, mobile homes, trailers, detached garages, houseboats, and houses with a "mother-in-law apartment" or "guest room".

16. Renovation. Altering a structure or component (*) any way, other than demolition.

17. Suspect Asbestos-Containing Material. Material that has historically contained asbestos.

E. MANAGEMENT OF ACM.

1. Condition.

a. ACM which is not likely to be disturbed by renovation (*) does not have to be removed.

b. The ACM in these locations must be maintained in a stable and damage free condition to prevent asbestos emissions.

c. ACM in an unstable, friable condition needs to be removed, encapsulated, or enclosed.

d. ACM in structures planned for demolition must be removed prior to the start of the demolition work.

2. Practices. Acceptable practices are one or more of the following to insure stable ACM conditions:

a. Avoiding the ACM by restricting access and/or signing;

b. Enclosing the ACM with a wall or other barrier;

c. Treating the ACM with a bridging encapsulation compound; or

d. Conducting periodic inspections to insure the ACM is still in a stable condition.

F. ASBESTOS SURVEY REQUIREMENTS.

1. Survey Requirements. Before doing any renovation or demolition an asbestos survey (*) must be performed by an AHERA building inspector (*) except for an renovations of owner-occupied, single-family residences. (*)

2. Records. The owner or operator of the facility must do the following:

a. Post a summary of the survey at the location on the work site where control of entry is maintained or communicate in writing to all persons who may come into contact with the ACM.

b. Retain a copy of all asbestos survey records for at least two years.

c. Record the condition and location of all known ACM remaining after completion of a renovation project.

G. NOTIFICATION.

1. General Requirements. Work must not be done on any project which could disturb ACM unless a complete notification has been submitted by the owner or operator to the authority on approved forms.

a. Duration of the project shall be commensurate with the amount of work.

b. All projects require notification except:

1) Asbestos projects other than demolition involving less than 10 lf (App. B) or 48 sf (App. B) per structure of ACM in a calendar year.

2) Removal and disposal of caulking or window-glazing.

3) Renovation or demolition of detached sheds, garages, or out-buildings located at owner-occupied single family dwellings.

c. Notification is required and the following apply:

1) The renovation or demolition of a facility (*) or vessel containing ACM or suspect ACM (*) more than the limits in subsection 3.07G1b(1) (pg. 3-xx).

2) A copy of the notification, all amendments, the asbestos survey, and any order of approval (App. A) for an alternate means of compliance must be available at all times during work at the asbestos project site.

3) Notification or amendment must be filed at least ten days prior to the planned start date.

4) A copy of all asbestos notification records must be retained for at least two years by the owner or operator of the facility.

d. Multiple Projects. Notification for multiple asbestos projects on contiguous properties may be filed on one form if:

1) Work is performed by the same contractor; and

2) A work plan is submitted that includes:

a) A map of the structures;

b) The site address for each structure;

c) The amount and type of ACM in each structure;

d) The schedule for performing the asbestos project work

e. Annual Notification. A property owner or owner's agent may file one annual notification for asbestos projects at one or more facilities on contiguous properties in one calendar year if:

1) The annual notification is filed at least ten days prior to commencing work on any asbestos project; and

2) The total amount of ACM for all asbestos projects is less than 260 lf or 160 sf.

f. Duration. Notifications are valid for no more than twelve months from the original notification date.

2. Amendments.

a. Mandatory. Must be submitted for any of the following and must be accompanied by the appropriate fee.

1) Increase in the project type or job size that increases the fee; or

2) Changes in the type of ACM that will be removed; or

3) Changes in the start date, completion date, or work schedule, including hours or days of work.

b. Optional. May be submitted for any other change in a notification.

1) Submitted by phone or fax and there is a minimal effort required to review it, an amendment fee will not be charged.

2) Submitted in writing on notification forms, an amendment fee will be charged.

c. Timing. Will not be accepted after the completion date on the current notification or latest amendment.

3. Emergencies.

a. Advance notification is not required, if:

1) A sudden, unexpected event occurred that resulted in a public health or safety hazard; or

2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage; or

3) ACM was encountered that was not identified during the asbestos survey; or

4) The project must proceed to avoid imposing an unreasonable financial burden.

b. A notification shall be filed not later than the first working day after the asbestos project is commenced and must be accompanied by a written demonstration from the property owner or operator demonstrating the need for the emergency project.

H. ASBESTOS REMOVAL.

1. Renovation Projects. Except as provided in subsection 3.07I3 (pg. 3-xx), renovation work which does not remove ACM must:

a. Enclose or encapsulate the ACM in place; or

b. Leave the ACM in an unaltered and stable condition.

2. Demolition Projects. Except as provided in this subsection and subsection 3.07I3 (pg. 3-xx), work that could disturb ACM must not be done without first removing all ACM.

3. Exceptions. ACM need not be removed prior to demolition, if the property owner demonstrates that it is not accessible because of unsafe conditions. Examples and requirements for this are:

1) Facilities or vessels that are structurally unsound and in danger of imminent collapse, or

2) Other conditions that are immediately dangerous to life and health.

3) Documentation for Unsafe Conditions.

a) Submit written documentation of the hazard by a qualified government official or a licensed structural engineer, and

b) Submit procedures that will be followed for controlling emissions during demolitions and disposal of the ACM.

I. PROCEDURES FOR ASBESTOS PROJECTS.

1. Training Requirements. Work must be performed by persons trained and certified in accordance with the standards established by L&I, OSHA, or EPA and whose certification is current. This requirement does not apply to asbestos projects conducted in an owner-occupied, single-family residence performed by the resident owner.

2. Asbestos Removal Work Practices. Persons (App. A) removing any ACM must:

a. Conduct work in a controlled area, marked by barriers and asbestos warning signs;

b. Restrict access to authorized personnel;

c. Equip with transparent viewing ports when a negative pressure enclosure is used, if feasible;

d. Saturate absorbent materials with a liquid wetting agent prior to removal;

e. Wet unsaturated surfaces exposed during removal immediately;

f. Coat nonabsorbent materials continuously with a liquid wetting agent;

g. Wet and seal all ACM waste (*) in leak-tight containers as soon as possible after removal but no later than the end of each work shift;

h. Clean any asbestos residue from the exterior of all leak-tight containers and ensure that each container is labeled with an asbestos warning sign specified by L&I, OSHA, or EPA;

i. Immediately after sealing each leak-tight container, permanently mark the container with:

- 1) Date the material was collected for disposal;
- 2) Name of the waste generator; and
- 3) Address where the ACM waste was generated

This marking must be readable without opening the container;

j. Do not be drop, throw, slid, or otherwise damage ACM waste containers; and

k. Store the ACM waste containers in a controlled area if not immediately transported to an approved waste disposal site.

3. Removal of Nonfriable ACM. The following asbestos removal methods must be employed for ACM that has been determined to be nonfriable (*) by a competent person (*) or an AHERA building inspector:

a. The material must be removed using methods which do not render the material friable. Removal methods such as sawing or grinding must not be employed.

b. Dust control methods must be used as necessary to assure no fugitive dust is generated.

c. The material must be carefully lowered to the ground to prevent fugitive dust.

d. After being lowered to the ground, the material must be immediately transferred to a disposal container.

4. Removal of Friable ACM. Any combination of the following are acceptable work practices:

a. Negative Pressure Enclosure. ACM removal is done inside a negative pressure enclosure equipped with a local exhaust system that captures airborne asbestos fibers;

b. Glove Bagging. ACM removal of small quantities of ACM using a glove bag (*) system.

c. Wrap and Cut Procedures. ACM need not be removed from a component (*) if the component is wrapped and sealed prior to removal, removed, stored for reuse or disposal, or transported without disturbing or damaging the ACM.

I. ALTERNATE MEANS OF COMPLIANCE. An alternate asbestos removal method may be used after prior written approval from the APCO if the following actions are taken:

1. Friable ACM Removal.

a. An AHERA project designer has evaluated the work area, the type of ACM, proposed work practices and engineering controls, and demonstrates to the APCO that the planned control method will be equally as effective as the work practices contained in subsection 3.07I (pg. 3-xx); and

b. The property owner or operator prepares a written air monitoring plan which includes PCM (App. B) air sampling. The sampling must demonstrate the asbestos fiber concentrations outside the controlled area do not exceed 0.01 f/cc (App. B) for an 8 hr. time weighted average.

c. Dry removal may be approved if:

1) It is necessary to avoid danger to workers or damage to equipment from wetting agents contacting high temperature steam lines or electrical components which can not be disconnected or de-energized during abatement, and

2) All wet removal methods have been evaluated by an AHERA project designer.

2. Nonfriable ACM.

a. A competent person or AHERA project designer has evaluated the work area, the type of ACM, the proposed work practices, and the engineering controls; and

b. The planned control method will be equally as effective as the work practices contained in subsection 3.07I (pg. 3-xx) in controlling asbestos emissions.

3. Leaving Nonfriable ACM in Place. Nonfriable ACM may be left in place during renovation or demolition upon prior written approval by the APCO if:

a. An AHERA project designer has evaluated the work area, the type of ACM, the proposed work practices, and the engineering controls; and

b. The ACM will remain nonfriable during all renovation or demolition activities and subsequent disposal of the debris.

c. This subsection does not apply to demolition by intentional burning.

4. Approval of Alternate Methods.

a. The APCO will issue an order of approval requiring conditions that are reasonably necessary to assure the planned control method is as effective as the work practices in subsection 3.07I (pg. 3-xx).

b. The APCO may revoke the order of approval for cause.

K. DISPOSAL OF ACM WASTE.

1. Prohibition. It is unlawful for any person to dispose of ACM waste unless it is deposited within ten days of removal at an approved waste disposal site.

2. Waste Tracking Requirements. It is unlawful for any person to dispose of ACM waste unless all of the following requirements are met:

a. Maintain shipment records starting prior to shipping the waste;

b. Use a form that includes all of the following information:

1) The name, address, and telephone number of the waste generator;

2) The approximate quantity in cubic meters or cubic yards;

3) The name and telephone number of the disposal site operator;

4) The name and physical location of the disposal site;

5) The date transported;

6) The name, address, and telephone number of the transporter; and

7) A certification that the contents of the consignment are fully and accurately described by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition to transport by highway according to applicable waste transport regulations.

c. Provide a copy of the waste shipment record to the disposal site owner or operator at the same time the ACM waste is delivered.

d. Return a signed copy of the waste shipment record to the waste generator within 30 days after receiving the waste at the disposal site.

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e. Retain a copy of all waste shipment records for at least 2 years, including a copy of the waste shipment record signed by the owner or operator of the designated waste disposal site.

3. Temporary Storage Site. A person may establish a facility to collect and store ACM waste if the facility is approved by the APCO and the following conditions are met:

a. Accumulated ACM waste is kept in a controlled storage area posted with asbestos warning signs and is accessible only to authorized persons;

b. Stored in leak-tight containers which are maintained in leak-tight condition;

c. Stored in a locked area except during transfer of ACM waste; and

d. Storage, transportation, disposal, and return of the waste shipment record to the waste generator must not exceed 90 days

L. FEES. See current fee schedule for the notification fees.

3.08 SPECIFIC DUST CONTROLS *(New Section)*

A. CONSTRUCTION DUST

1. Purpose. To prevent and reduce fugitive dust emissions from construction.

2. Applicability. Applies to any owner or operator engaged in the construction, repair, or demolition of any building; construction or maintenance of a road; site preparation; or landscaping work on a property.

3. Exemptions.

a. From Requirements in subsection 3.08A4 (pg. 3-xx). None.

b. From Submitting a Dust Control Plan.

1) A single family residence or duplex dwelling shall be exempt provided the site is not a phase of a project that involves more than one dwelling.

2) Projects causing complaints of dust emissions that result in a determination by the authority that reasonable precautions to prevent dust emissions are not being used shall not be exempt from the requirement for a dust control plan.

c. Emergencies. Sources are granted exemptions from subsection 3.08A during the following emergency situations provided the source contacts the authority within 24 hrs. of the start of the emergency and uses reasonable precautions as soon as feasible after the emergency is resolved:

1) Active operations conducted during emergency, life threatening situations, or in conjunction with an officially declared disaster or state or emergency; or

2) Active operations conducted by public service utilities to provide electrical, natural gas, telephone, water, or sewer service during emergency outages.

4. Requirements.

a. Visible Emissions. Sources are required to comply with subsection 3.01C1a (pg. 3-xx).

b. Preventing Particulate Matter From Becoming Airborne. Sources are required to comply with subsection 3.01C1b (pg. 3-xx).

d. Construction, Demolition, or Repair Work. Sources are required to comply with subsection 3.01C1c (pg. 3-xx).

e. Emissions Detrimental to Persons or Property. Sources are required to comply with subsection 3.01C1e (pg. 3-xx).

f. Fugitive Dust. Sources are required to comply with subsection 3.01C2c (pg. 3-xx).

g. Water for Dust Control. (5.12D) Any person engaged in the doing construction, repair, remodeling or demolishing of any building; or engaging in any road construction or repair within any incorporated town or city in Yakima County, Washington, or within an area of one (1) mile of the city limits of the city of Yakima, Washington, or within one-quarter (1/4) of a mile of the city limits of any other town or city in Yakima County, Washington, shall take such measures as are reasonably necessary to reduce air pollution; including the use of water and the sprinkling of water to control dust so that the same is not emitted and deposited upon the property of others in quantities which unreasonably interfere with the enjoyment of their property. No work as above defined shall be commenced without having must have an adequate supply of water available at the job site in sufficient quantities to control dust air pollution at the time of commencement of such work. at all times.

h. Site or Project Dust Control Plans. Where the potential exists for fugitive dust emissions, an owner or operator must prepare a site dust control plan and submit it to the authority 15 days prior to the start of any work that will disturb soil stability, cover, or cause fugitive dust emissions.

1) Dust control plans must identify management practices and operational procedures which will effectively control fugitive dust emissions.

2) Dust control plans must contain the following information:

a) A detailed map or drawing of the site;

b) A description of the water source to be made available to the site, if any;

c) A description of preventive dust control measures to be implemented, specific to each area or process;

d) A description of contingency measures to be implemented in the event any of the preventive dust control measures become ineffective;

e) A statement, signed by the owner or operator of the site, accepting responsibility for the implementation and maintenance of the dust control plan;

f) The name and telephone number of person(s) available 24 hours a day to mitigate any episodes of dust emissions; and

g) If the ownership or control of all or part of the site changes, the plan must be resubmitted by the new party and approved by the authority.

3) The authority will review the plan and either approve or require modification of the plan.

4) An owner or operator must implement effective dust control measures outlined in approved plans.

i. Master Dust Control Plan. As an alternative to a site dust control plan, an owner or operator may submit a master dust control plan that applies to more than one site or project. The master plan must:

1) Address all the requirements in subsection 3.08A4g (pg. 3-xx); and

2) Provide for effective control of fugitive dust emissions to all sites and projects.

3) Prior to the commencement of work at any site or project covered by the master plan, additional notification must be submitted as soon as possible. The master plan or the additional notification must:

a) Give the name and phone number of a person responsible for the implementation of dust control measures for each of the sites; and

b) Address any unique site qualities or project operations that would impair the effectiveness of dust control measures.

5. Additional Information. Additional information is available from the authority.

6. Fees. See current fee schedule.

B. DUST FROM CATTLE FEEDING OPERATIONS.

1. Purpose. To prevent and reduce fugitive dust emissions from cattle feeding operations.

2. Applicability. Applies to any owner or operator of a beef or dairy replacement cattle feeding operation:

3. Exemptions. Sources are granted exemptions from subsection 3.08B during an emergency situations provided:

a. The owner or operator of the source contacts the authority before the end of the next business day after the start of the emergency; and

b. The source uses reasonable precautions as soon as feasible after the emergency is resolved.

c. An emergency situation exists when compliance with subsection 3.08B would cause risk to human health or substantial crop damage or cattle loses

4. Requirements.

a. Visible Emissions. Sources are required to comply with subsection 3.01C1a (pg. 3-xx).

d. Preventing Particulate Matter From Becoming Airborne. Sources are required to comply with subsection 3.01C1b (pg. 3-xx)

e. Odor. Sources are required to comply with subsection 3.01C1d (pg. 3-xx).

f. Emissions Detrimental to Persons or Property. Sources are required to comply subsection 3.01C1e (pg. 3-xx).

g. Fugitive Dust. Sources are required to comply with subsection 3.01C2c (pg. 3-xx).

h. Dust Control Plan Preparation. The following types of sources must prepare and submit an annual dust control plan to the authority no later than April 15th of each year.

1) Any source with an average of 1,000 or more of cattle confined and fed during the months of April through October and; or

2) Any cattle feeding operation which receives a verified fugitive dust complaint.

i. Dust Control Plan Content. Dust control plans must include:

1) A map or drawing of the feedlot;

2) The operational capacity of the feedlot;

3) The maximum number of cattle which are confined;

4) The water available to the feedlot for dust control;

5) The site-specific features which could complicate or prevent implementation of BMPs (App. B)

6) Which BMPs will be used, and where they will be used;

7) The equipment and materials to be used to implement a BMP;

8) An operational and maintenance plan and schedule to implement each BMP; and

9) At a minimum the operation and maintenance plan shall BMPs for:

a) Hay chopping,

b) Grain processing,

c) Feed mixing, and

d) Feed handling.

h. Plan Implementation.

1) The authority will approve or require modification of the plan within 30 days of receipt.

2) A feedlot operator must implement an approved dust control plan.

3) A feedlot operator may change practices from those in an approved dust control plan as long as the effectiveness of the plan is not reduced, and the operator notifies the authority of the change.

4. Additional Information. Additional information is available from the authority.

5. Fees. See current fee schedule

3.09 MOBILE SOURCE EMISSIONS (New Section)

A. PURPOSE. To control and minimize air pollution from all types of motor vehicles.

B. OXYGENATED GASOLINE. Reserved for later use.

3.10 GENERAL RULE FOR MINOR SOURCES (New Section) Reserved for later use.

3.11 MONITORING, RECORDKEEPING, AND SPECIAL REPORTING (5.11)

A. PURPOSE. To ensure the authority has sufficient information to determine compliance with emission limitations, permit conditions, and control measures.

B. APPLICABILITY. To the owners or operators of air pollution sources upon notification by the authority or specified by federal or state law or regulation.

C. NOTIFICATION. Sources (App. A) are notified of the requirements for this section by any of the following:

1. NSR (App. B) approval orders;

2. Requirements imposed by an AOP (App. B);

3. Regulatory orders issued by the APCO (App. B);

4. Compliance orders or corrective action orders issued by the APCO; or

5. Required by the APCO.

D. GENERAL REQUIREMENTS.

1. **Emission Standards and Test.** The measurable emission standards cited in section 3.11 are listed in app. D (pg. D-1) with the test method and compliance assurance requirements.

2. **Installation of Monitoring Equipment.** Categories of sources or individual sources may be required by federal or state law or regulations or directed by the APCO to install,

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operate, and maintain equipment to monitor air pollutants for just cause.

3. Excess Emissions. (5.11D & WAC 173-400-107) If an equipment breakdown or upset condition occurs resulting in emissions in excess of applicable limits set by this Regulation or resulting in emissions which violate an applicable compliance schedule, the owner or operator of the affected source shall take immediate corrective action and shall report such breakdown to the Authority by the next working day after the breakdown occurs. An initial breakdown or upset condition shall not be subject to penalties for emissions in excess of the limits set by this chapter, providing the owner or operator complies with the provisions of this subsection and providing the breakdown or upset was not the result of gross negligence. If an extended time period is required to complete the corrective action, the Authority or its authorized representative may require that the operation be curtailed or shutdown. Repeated breakdowns may be subject to all penalties authorized by law. The Authority or its authorized representative may issue regulatory orders specifying maintenance and operating procedures. The owner or operator of a source must take the following actions and prove to the authority that excess emissions were unavoidable to obtain relief from enforcement action under article 5.

a. Immediate Action for All Excess Emissions. Take immediate corrective action to stop the excess emissions and mitigate the effects. This includes slowing or stopping the emission units when the operator knows or should have known a standard or permit condition was exceeded.

b. Reporting Action. Report the excess emissions to the authority as follows:

1) All excess emissions which present a risk to public health or safety or the owner or operator believes are unavoidable shall be reported by the end of the next working day;

2) All other excess emissions by the end of the following month during the submission of emission monitoring reports or by a special report; and

3) When requested by the authority, the owner or operator shall submit a detailed written report which addresses the following:

a) Known causes of the emissions;

b) Corrective action taken;

c) Preventive measures taken to minimize the risk of a reoccurrence;

d) A demonstration that the excess emissions could not be avoided through better planning and design of the equipment and processes;

e) Any bypass of control apparatus (App. A) was necessary to prevent the loss of life, personal injury, or severe property damage;

f) The excess emissions could not have been avoided by a different scheduling for maintenance or operation and maintenance practices; and

g) The excess emissions were not the result of a reoccurring pattern which indicates inadequate design, operation, or maintenance of the equipment or processes.

c. Determination of Unavoidable Excess Emissions. After receiving the reports from the source, the authority

shall make a determination of whether the excess emissions were avoidable or unavoidable. Unavoidable excess emissions must meet all of the following conditions:

1) The source took immediate action to stop the excess emissions and mitigate the effects;

2) The source reported the excess emissions as required; and

3) The excess emissions resulted during any of the following:

a) Equipment startup or shut down;

b) Scheduled maintenance and the excess emissions could not be avoided by reasonable design, better scheduling of the maintenance, or better operation and maintenance practices;

c) Upset conditions not caused by poor or inadequate design, operation, or maintenance; or

d) Upset conditions caused by power failure or other natural causes.

Any other excess emissions are considered avoidable.

d. Action by the Authority.

1) Shall make a determination of avoidable or unavoidable excess emission within 30 days after all information has been submitted by the owner or operator of the source.

2) If the excess emissions are found to be avoidable, the authority shall take appropriate enforcement action.

3) May require shutdown of the equipment or process if the corrective action will require an extended time period

4. Change in Raw Material or Fuels for Non-AOP Sources. (5.11K)

a. Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of any of the following air pollutants sulfur dioxide of forty 40 tons per year or more over that stated in the initial inventory required by WAC 173-400-105(1) shall require the submittal of sufficient information to Ecology or the authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide the pollutant:

1) SO₂ - 40 TPY (App. B)

2) NO_x - 40 TPY

3) VOCs - 40 TPY, or

4) PM - 25 TPY.

b. Ecology or The authority may issue regulatory orders requiring controls to reduce the effect of such the increases.

c. Cumulative changes in raw material or fuel of less than 0.5 percent increase in average annual sulfur content over the initial inventory may not require such a notice.

5. Maintenance of Monitoring Records. The source shall maintain monitoring records at the source for the following time periods:

a. Minor Sources. Two years unless directed otherwise by the APCO.

b. Major Sources. Five years.

6. Additional Monitoring Requirement. Nothing in this section precludes the authority from requiring additional monitoring, recordkeeping, reporting, or compliance assurance monitoring.

E. EMISSIONS SAMPLING.

1. Ambient Air Monitoring. (5.11 A)

a. Purpose. ~~The Authority shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to for the concentrations and movements of air contaminants pollutants as approved by the Board.~~

b. Monitoring. ~~As part of this program, The Authority APCO (App. B) or its authorized representative may require any source under the jurisdiction of the Authority to conduct stack and/or ambient air monitoring, and to report the results to the Authority when there is credible evidence that the source is creating significant emissions that contributes to a violation of the NAAQS (App. B).~~

c. Quality Control. ~~The monitoring equipment shall be operated and maintained to meet the QA/QC (App. B) requirements of 40 CFR Part 58.~~

d. Reporting Requirements. ~~The reporting requirements and due date for the reports will be specified by the APCO.~~

2. Compliance Testing. (5.11 C) ~~In order to demonstrate compliance with this Regulation, the Authority or its authorized representative may require that a test be conducted of the source using approved EPA methods from 40 CFR 60 Appendix A on file at the Authority or Ecology.~~

a. Purpose. ~~To determine source compliance with the appropriate emission standards.~~

b. Sampling Requirements.

1) Test Methods. ~~Must be a test be conducted of the source using applicable approved EPA methods from 40 CFR Part 51, 60, 61, or 63 Appendix A, on file at the Authority or Ecology and "Source Test Manual - Procedures for Compliance Testing", WA State Dep't. Of Ecology, July 12, 1990.~~

2) Testing Frequency. ~~Sources having one or more emission points which emit more than a significant amount of any pollutant as defined in app. A will be tested for compliance with the applicable standards at least:~~

a) Major Stationary Sources. ~~Once per five years or as required by NSR approval, permit, order, or state or federal requirements.~~

b) Minor Sources. ~~As required by NSR approval, permit, order, or state or federal requirements.~~

3) Sample Collection by the Authority. ~~The operator of a source may be required to provide the necessary platform and sampling ports to perform a test of the source. The Authority shall be allowed to obtain a sample from any source. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at any time. As specified in subsection 2.01D (pg. 2-xx).~~

4) Sample Collection by the Owner or Operator. ~~The owner or operator of a source shall notify the authority in writing at least 14 days prior to any compliance test and provide the authority an opportunity to review the test plan and observe the test.~~

c. Test Results. ~~The owner or operator of any source required to perform a compliance test must submit a report to the authority no later than 60 days after the test. The report must include:~~

1) A description of the source and the sampling location;

2) The time and date of the test;

3) A summary of results, reported in units and for averaging periods consistent with the applicable emission standard;

4) A description of the test methods and quality assurance procedures employed;

5) The amount and type of fuel burned or raw material processed by the source during the test;

6) The operating parameters of the source and control apparatus (App. A) during the test;

7) Field data and example calculations; and

8) A statement signed by the senior management official of the testing firm certifying the validity of the source test report.

d. Required by the Authority. ~~As a condition of a NSR (App. B) approval, a permit, regulatory order, or order of approval, the authority may require the source to provide a compliance test.~~

3. Emission Inventory. (5.11 J)

a. Purpose. ~~To maintain a current and accurate inventory of emissions from air pollution sources.~~

b. Applicability. ~~The owner(s) or operator(s) of any air contaminant of the following types of sources shall must submit an annual inventory of emissions from the source each year:~~

1) Major stationary sources;

2) Sources emitting significant levels of pollutants as listed in app. A;

3) Sources subject to 40 CFR Part 60, NSPS (App. B); 40 CFR Part 61, NESHAPS (App. B); or 40 CFR Part 63, MACT (App. B); or

4) Any source required by NSR approval, permit, order, or state or federal requirements.

c. Specific Requirements.

1) Emissions Included. ~~The inventory may include stack and fugitive emissions of particulate matter, PM-10, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, and other contaminants, and shall be submitted (when required) no later than one hundred five (105) days after the end of the calendar year. The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards. The inventory shall include the emissions from all emission units for criteria pollutants (App. A), fluorides, TRS (App. B), and TAPS (App. B) listed in app. K, para B (pg. K-4).~~

2) Records Maintenance. ~~The owner(s) or operator(s) shall must maintain records of information necessary to substantiate any reported emissions consistent with the averaging times for the applicable standards.~~

3) Due Date. ~~and shall The inventory must be submitted (when required) no later than one hundred five (105) days after the end of the calendar April 1st of each year or as directed by the APCO.~~

4) Review by the Authority. ~~Emission inventories are subject to review and approval by the authority. Emission inventories which are incomplete or inaccurate shall be returned to the source for correction and resubmission to the authority.~~

E. CONTINUOUS MONITORING AND RECORDING REQUIREMENTS FOR CERTAIN SOURCES. (5.11 E)

1. Purpose. (5.11A) ~~The Authority shall conduct a continuous surveillance program to monitor the quality of the~~

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ambient atmosphere as to concentrations of air contaminants as approved by the Board.

As part of this program, the Authority or its authorized representative may require any source under the jurisdiction of the Authority to conduct stack and/or ambient air monitoring, and to report the results to the Authority. To continuously monitor the emissions and ambient air conditions at certain sources for specific pollutants.

2. Applicability. Applies to the categories of stationary sources and the emissions specified in table 3.11-1.

3. Specific Requirements.

a. Monitoring Equipment. Prior to the start of emitting air pollutants from a source, owners and operators of the following categories of stationary sources listed must install, calibrate, maintain, and operate equipment for continuously monitoring and recording equipment those emissions specified for:

- 1) Sources categories in table 3.11-1; or
- 2) Sources or source categories directed by the APCO.

b. Waiver or Extensions. (5.11 F) All sources subject to this Regulation shall procure and install equipment and commence monitoring and recording activities, no later than eighteen (18) months after adoption of this Regulation by the Authority. Any waiver or extension to this time requirement shall must be requested as a negotiated through the variance procedure of WAC 173-400-180 under subsection 3.00D (pg. 3-xx).

4. Exemptions. (5.11 H) Are listed in table 3.11-2.

- a. A source subject to a New Source Performance Standard;
- b. A source not subject to an applicable emission standard;

5. Equipment and Performance Specifications. (5.11 E. 5) Owners and operators of those sources required to install continuous monitoring equipment under this regula-

tion or the SIP (*App. B*) shall must demonstrate to the Authority compliance with the equipment and performance specifications, and observe the reporting requirements, contained in:

a. Title 40 Code of Federal Regulations, CFR Part 51 (*App. B*), Appendix P, Section 3, 4, and 5, promulgated on October 6, 1975, which is by this reference adopted and incorporated herein;

b. 40 CFR Part 60, App. B, Performance Specifications; and

c. QA/QC requirements in 40 CFR Part 60, App. F.

6. Special Considerations. (5.11 G)

a. If for reason of physical plant limitations or extreme economic situations, the authority determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures will be established on an individual basis.

b. These will generally be of the form of stack (*App. A*) tests conducted at a frequency sufficient to establish the emission levels over time and to monitor the variability of the emissions deviations in these levels.

7. Monitoring System Malfunctions. (5.11 I)

a. A source may be temporarily exempted from the monitoring and reporting requirements of this Regulation during periods of when the monitoring system malfunctions provided that the source owner or operator shows demonstrates in writing to the satisfaction of the authority that the real malfunction was unavoidable and is being repaired as expeditiously as practicable.

b. Missing monitoring system data is acceptable when:

- 1) The missing data is ≤ 10% of the total observations;
- 2) The missing data is not continuous; and
- 3) The missing data resulted from monitoring equipment malfunction, calibration, maintenance, power failure, or other conditions not reasonably preventable.

Table 3.11-1 Source Categories which Require Continuous Emissions Monitoring.

Stationary Source Category	Emission to be Monitored
Fossil fuel-fired steam generators	Opacity
	Sulfur dioxide (SO ₂)
	% O ₂ or CO ₂ (where such measurements are necessary for the conversion of SO ₂ continuous emission monitoring data)
Sulfuric acid plants	SO ₂ where production capacity is > 300 tons/day, expressed as 100% acid
Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries	Opacity
Wood residue fuel-fired steam generators.	Opacity. See exemption in table 3.11-2.

Table 3.11-2 Source Categories Exempt from Continuous Emissions Monitoring.

Stationary Source Category	Exemptions to Monitoring Requirement
Fossil fuel-fired steam generators	Steam generator capacity < 250 million BTU/hr heat input (<i>App. B</i>)
	Only gaseous fuel is burned
	Steam generator capacity < 250 million BTU/hr heat input
	SO ₂ (<i>App. B</i>) control apparatus is not required
	If such measurements are not necessary for the conversion of SO ₂ continuous emission monitoring data
	General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than 30% as reported to the Federal Power Commission for the calendar year 1974, or as otherwise demonstrated to the authority by the owner or operator.

Stationary Source Category	Exemptions to Monitoring Requirement
Sulfuric acid plants	Facilities where conversion to sulfuric acid is utilized used primarily as a means of preventing emissions to the atmosphere of SO ₂ or other sulfur compounds.
Fluid bed catalytic cracking units catalyst regenerators at petroleum refineries	Fresh feed capacity ≤ 20,000 barrels/day (<i>App. B</i>).
Wood residue fuel-fired steam generators.	Steam generator capacity < 100 million BTU/hr heat input. When the control apparatus causes the exhaust plume to be water vapor that prevents a correct opacity reading.

ARTICLE 4 - PERMITS & REGISTRATION

4.00 REQUIREMENTS COMMON TO ALL PERMITS
(*New Section*) Reserved for later use.

4.01 REGISTRATION PROGRAM (4.01)

A. PURPOSE. (*WAC 173-400-099*) To develop and maintain a current and accurate record of air contaminant sources.

B. APPLICABILITY. (*4.01 A*) Applies to the owner or operator of each source within the following source categories in app. G. (pg. G-1), that does not hold an operating permit, shall register the source with the Authority:

C. RESPONSIBILITY. (*4.01D*) The owner or operator of the source is responsible to notify the authority of the existence of the source except when exempted in subsection 4.01D (pg. 4-1).

D. EXEMPTIONS. All exemptions based on emissions use the actual emissions from the source.

1. Air Operating Permit Sources. Sources or emission units which are permitted according to section 4.04 (pg. 4-xx).

2. Criteria Exempt Sources. Sources which have actual emissions less than the rates shown in table 4.01-1 (pg. K-4).

3. Toxic Air Pollutants Sources. Sources which do not emit a quantifiable amount of toxic air pollutants listed in app. K, para. B.

4. Gasoline Marketing Operations.

a. Any loading terminal or bulk plant dispensing ≤ 7,200,000 gallons per year;

b. Any gasoline dispensing facility dispensing ≤ 360,000 gallons per year which started operation prior to August 31, 1991; or

c. Any gasoline dispensing facility with a total storage capacity of ≤ 10,000 gallons.

Table 4.01-1 Criteria For Defining Exempt Sources

Pollutant	TPX (<i>App. B</i>)
CO (<i>App. B</i>)	5.0
NO _x (<i>App. B</i>)	2.0
SO ₂ (<i>App. B</i>)	2.0
PM (<i>App. A</i>)	1.25
PM ₁₀ (<i>App. A</i>)	0.75
VOC (<i>App. B</i>)	2.0
Pb (<i>App. B</i>)	0.005

E. LIMITED EXEMPTIONS. (RCW 70.94.151(3))

1. A grain warehouse or elevator emission source with an annual volume of < 10,000,000 bushels is granted an exemption from registering, reporting, or paying a registration fee after:

a. Filing an initial registration according to subsection 4.01F1 (pg. 4-xx);

b. Filing an Initial report according to subsection 4.01F2 (pg. 4-xx); and

c. Paying the initial registration fee according to subsection 4.01G (pg. 4-xx).

2. The exemption remains until the source increases the licensed capacity.

3. If the licensed capacity is increased, the source must register, report, and pay the registration fee again prior to the start of the first harvest season after the date of change in the licensed capacity.

4. The source is not exempted from the requirements of 4.01F5&6 (pg. 4-xx).

F. REGISTRATION AND REPORTING PROCEDURE. (WAC 173-400-101, 102, & 103)

1. Registration. (*4.01E*) The owner or operator of any proposed new source shall register the source with the Authority. Initial registration and reporting shall be on forms supplied by the Authority within the time specified thereon:

a. Sources required to register are defined in subsections 4.01B, D, & E (pg. 4-xx).

b. The registrant shall use forms and directions supplied by the authority.

c. The forms must be completed and returned within the time specified. The forms will provide for the submission of information concerning locations, size and height of contaminant outlets, processes employed, nature of the contaminant emission and such other information relevant to air pollution as the Authority may require. A separate registration shall be required for each source of contaminant provided that an owner or lessee has the option to register a process with a detailed inventory of contaminant sources and emissions related to said process and provided further than an owner need not make a separate registration for identical units or equipment or control apparatus installed, altered or operated in an identical manner on the same premises.

d. (*4.01 F*) Emission units within the facility must be listed separately unless they meet the following conditions:

1) The authority determines that certain emission units may be combined into process streams for purposes of registration and reporting; or

2) There are identical units of equipment or control facilities installed, altered, or operated in an identical manner on the same process; the number of the units may be reported.

PROPOSED

2. Reporting. ~~(4.01 E) After initial registration and reporting, subsequent general Reports shall~~ must be filed ~~annually~~ during January ~~on using forms and directions supplied by the authority in accordance with the terms of the Pollution Disclosure Act of 1971, Chapter 160, Laws of 1971, Extraordinary Session.~~

a. Detailed Annual Reporting.

1) The source emits one or more pollutants at rates greater than those listed in table 4.01-2;

2) Reporting is necessary to comply with federal requirements and emission standards;

3) Reporting is required in a RACT (App. B) determination for the source category;

4) The APCO determines that the source poses a threat to human health and the environment; or

5) Sources who qualified for three-year reporting, but failed to comply with the regulations or orders issued by the authority.

b. Three-Year Reporting.

1) The source emits one or more pollutants at rates greater than the rates in table 4.01-1 but less than the rates in table 4.01-2; or

2) The source emits a quantifiable amount of one or more class A or B toxic air pollutants listed in app. K, para. B (pg. K-4).

Table 4.01-2 Significant Pollutant Emission Levels

Pollutant	TPY
<u>CO (App. B)</u>	<u>100</u>
<u>NO_x (App. B)</u>	<u>40</u>
<u>SO_x (App. B)</u>	<u>40</u>
<u>PM (App. A)</u>	<u>25</u>
<u>PM₁₀ (App. A)</u>	<u>15</u>
<u>VOC (App. B)</u>	<u>40</u>
<u>Pb (App. B)</u>	<u>0.6</u>
<u>Fluorides</u>	<u>3</u>
<u>H₂SO₄ (App. B) mist</u>	<u>7</u>
<u>H₂S (App. B)</u>	<u>10</u>
<u>TRS (App. B) including H₂S</u>	<u>10</u>
<u>Municipal waste combustor organics measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.</u>	<u>.0000035</u>
<u>Municipal waste combustor metals measured as PM.</u>	<u>15</u>
<u>Municipal waste combustor acid gases measured as SO₂ and HCl (App. B)</u>	<u>40</u>

c. Report Contents.

1) Detailed annual reports shall contain:

a) Annual emissions inventory;

b) Operation and maintenance plans;

c) Plan showing the plant layout; and

d) Changes in operations since the last detailed report.

2) Three-year reports shall contain the annual emissions inventory.

3) The APCO (App. B) will schedule the detailed annual and three-year report cycles.

3. Operational and Maintenance Plan. Owners or operators of registered air contaminant sources must develop and maintain an operation and maintenance plan for process and control apparatus (App. A). The plan must:

a. Reflect good industrial practice;

b. Include a record of performance and periodic inspections of process and control apparatus;

c. Be reviewed and updated by the source owner or operator at least annually; and

d. Be made available to the authority upon request.

4. Signature. ~~(4.01G) Each registration shall be signed~~

by the owner or lessee or agent for such owner or lessee. The owner or the lessee of the source shall be responsible for the registration and the correctness of the information submitted. The owner, operator, or a designated representative must sign the registration or reporting form for each source. The owner or lessee of the source is responsible for the accuracy, completeness, and timely submittal of this information.

5. Closure Report. ~~(4.01 B) A special closure report of closure shall~~ must be filed with the authority within 90 days whenever the operations ~~producing of an emissions source~~ are permanently ceased for any source listed in Section 4.01(A) above.

6. Change of Ownership. A new owner or operator must report to the authority within 90 days of any change of ownership or operator.

G. FEES. ~~(4.01 H) All registrants shall~~ must pay a fee in accordance with the registration current fee schedule in Article XIII, Section 13.01.

PROPOSED

PROPOSED

4.02 NOTICE OF CONSTRUCTION NEW SOURCE REVIEW. (4.02, RCW 70.94.152, & WAC 173-400-110→116)

A. PURPOSE. To explain the requirements and processes for a new source review (NSR) application for a stationary or temporary source and the resulting review and approval process.

B. APPLICABILITY. (4.02A) No person shall construct, install, establish, or modify a new air contaminant source, except those sources excluded in Section 4.03 of this Regulation, without first filing with the Authority a "Notice of Construction, Installation or Establishment of New Air Contaminant Source", on forms prepared and furnished by the Authority. For the purpose of this section, addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction, installation or establishment of a new air contaminant source.

1. Applies to all temporary sources and the following stationary sources unless exempted in subsection 4.02C (pg. 4-xx):

- a. All new air pollution sources;
- b. Any replacement or alteration of air emission control apparatus (App. A) or a change in process that affects emissions;
- c. Any project that qualifies as a construction, reconstruction, or modification of a facility within the meaning of 40 CFR Part 60 except Subpart AAA, Woodstoves;
- d. Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 except for asbestos demolition and renovation projects subject to 40 CFR 61.145;
- e. Any project that qualifies as a new source within the meaning of 40 CFR 63.2;
- f. Any project that qualifies as a major stationary source or major modification of a source as defined in app. A; or
- g. Any project that requires an increase in a plant-wide cap or unit specific emission limit.

2. Any source emitting toxic air pollutants (TAP).

- a. The NSR (App. B) for the TAP (App. B) is subject to chap. 173-460 WAC; and
- b. The NSR for all other pollutants is subject to this section.

3. The NSR for all air pollutants may be combined in one application and approval.

C. EXEMPTIONS. (4.03) Neither registration nor notice of construction shall be required for the following air contaminant sources:

- 1. Air conditioning or ventilating systems not designed to remove contaminant generated by or released from equipment.
- 2. Blast cleaning equipment which uses a suspension of abrasive in liquid water.
- 3. Fuel burning equipment if used solely for a private dwelling serving three (3) families or less.
- 4. Insecticide and herbicide spray equipment.
- 5. Non stationary internal combustion engines, including gas turbine and jet engines.

~~6. Laboratory equipment used exclusively for chemical or physical analysis.~~

~~7. Laundry driers, extractors or tumblers used exclusively for the removal of water from fabric.~~

~~8. Application of surface coatings by use of an aqueous solution or suspension if used on external or internal walls of residential, commercial or industrial facilities.~~

~~9. Steam cleaning equipment used exclusively for that purpose.~~

~~10. Vacuum producing devices used in laboratory operations, and vacuum producing devices which do not remove or convey air contaminant from or to another source.~~

~~11 Vents used exclusively for:~~

- e. Sanitary or storm drainage systems;
- d. Safety valves; or
- e. Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.
- f. Construction of single family or duplex dwellings.

1. Emission Unit and Activity Exemptions. These are listed in app. K, para. A (pg. K-1).

2. Exemptions Based on Emissions Thresholds.

a. A new emissions unit with a potential to emit below each of the threshold levels (App. A) listed in table 4.02-1 is exempt from NSR provided the conditions of subsection 4.02C2c (pg. 4-xx) are met.

b. A modification to an existing emissions unit that increases the unit's actual emissions by less than each of the threshold levels listed in the table 4.02-1 is exempt from NSR provided the conditions of 4.02C2c (pg. 4-xx) of this subsection are met.

c. The owner or operator seeking to exempt a project from NSR shall notify, and upon request, file a brief project summary with the authority prior to beginning actual construction on the project. If the authority determines that the project will have more than a *de minimis* (App. A) impact on air quality, the authority may require the filing of a NSR application. The authority may require the owner or operator to demonstrate that the emissions increase from the new emissions unit is smaller than all of the thresholds listed in table 4.02-1

d. The owner/operator may begin actual construction on the project 31 days after the authority receives the project summary, unless the authority notifies the owner/operator within 30 days that the proposed new source requires a NSR application.

Table 4.02-1 Exemption Threshold Table

Pollutant	Threshold Level TPY (App. B)
PM (App. A)	1.250
PM ₁₀ (App. A)	0.750
SO _x (App. B)	2.000
NO _x (App. B)	2.000
Total VOC (App. B)	2.000
CO (App. B)	5.000
Pb (App. B)	0.005

Ozone Depleting Substances in Aggregate (the sum of Class I and/or Class II substances as defined in FCAA Title VI and 40 CFR Part 82)	1.000
Toxic Air Pollutants	As specified in 173-460 WAC & app. K, § B.

3. Gasoline Stations. Any new station with $\leq 10,000$ (App. B) gallons of total storage capacity.

D. REQUIREMENTS FOR ALL NSR APPLICATIONS.

1. Information Required.

a. Application Form. The source must use and complete the NSR application on forms furnished by the authority.

b. Additional Documentation. Any additional information required by the APCO (App. A) to show that the proposed air contaminant (App. A) source will meet the applicable emissions standards.

c. Signature. (SCAPCA Sect 5.04) Each NSR application must be signed by the owner, operator, or designated representative of the air contaminant source.

2. Public Involvement. (4.02 H2) Within fifteen days of receipt of a complete application for a Notice of Construction the Authority shall determine whether public notice is required, and if so it shall publish notice to the public of an opportunity to submit written comments during a thirty (30) day period. The authority must follow the requirements of section 2.04 (pg. 2-xx).

3. Limitation of Review. (4.02 D) Any Notice of Construction review of a modification shall will be limited to the emission unit(s) or units proposed to be modified and the air contaminants pollutants whose emissions would increase as the result of the modification described in the NSR application after the completeness determination is made under subsection 4.02E.

4. Operation and Maintenance. (4.02 D) Any features, machines and devices constituting parts of or called for by plans, specifications or other information submitted pursuant to this section shall be maintained and operated in good working order. The owner or operator will operate and maintain the process and control apparatus subject to the NSR application according to the specifications of the manufacturer and subsection 3.00E (pg. 3-xx) to prevent avoidable emissions.

E. ADDITIONAL NSR APPLICATION REQUIREMENTS FOR STATIONARY SOURCES.

1. Time Limits.

a. Completeness Determination. (4.02B) Within thirty (30) days after the receipt of Notice of Construction the NSR application the authority shall must either notify the applicant in writing that additional information is necessary; or that the application is complete.

b. Additional Information is Needed. The Authority may require the submission of plans, specifications, and such other information as it deems necessary concerning the proposed construction, installation and establishment of such source. After the request for additional information, the applicant shall provide the requested information within 30 days; or within 15 days provide a date when the information will be available.

2. Cancellation of Application. An application that doesn't meet these time limits may be canceled. Any continuation shall require a new NSR application.

3. Withdrawal of Application. An applicant may withdraw an application at any time.

4. Action on Application. (4.02C) Within sixty (60) days of receipt by the authority of a complete Notice of Construction NSR application the authority shall must either:

a. Initiate public notice and comment on a proposed decision for those Notice of Construction application reviews subject to public notice and issue thereafter a final decision as promptly as possible projects qualifying under section 2.04 (pg. 2-xx); or

b. Issue a final decision on the application;

F. ADDITIONAL NSR APPLICATION REQUIREMENTS FOR TEMPORARY SOURCES.

1. Advance Notification. (4.02G) For Sources, such as asphalt batch plants, with multiple locations which are located temporarily at particular multiple sites, the owner or operator shall be permitted to relocate and operate at a temporary location without filing a notice of construction providing that after the owner or operator must provides the following notification to the authority of the intent to operate at the new location. This notification must be at least thirty (30) days prior to starting the operation.

2. Information Required. and The source must supply sufficient information to enable the authority to determine that the operation will comply with:

a. The emission standards for a new source;

b. and The applicable ambient air standards; and

c. If in a non-attainment area, it will not interfere with scheduled attainment of ambient standards.

G. REQUIREMENTS FOR THE APPROVAL OF ALL NSR APPLICATIONS.

1. SEPA Compliance. No NSR application will be approved without complying with the SEPA (App. B) and public participation requirements in section 2.04 (pg. 2-xx).

2. Content. An approved NSR must include the following:

a. (4.02D2) Include A determination of whether that the operation of the new air contaminant source at the location proposed location will not cause any ambient air quality standard to be exceeded or cause a potential hazard to public health.

b. (4.02 D2) Include A determination that the proposed new source will comply with all applicable new source performance standards and National Emission Standards for Hazardous Air Pollutants federal, state, and authority laws and regulations. This includes the visibility protection requirements in nonattainment areas in 40 CFR 52.28.

c. (4.02E) A determination of which emission control devices will be used.

d. For an existing stationary source when the emission control technology is replaced or substantially altered, but does not constitute a major modification, Best Available Control technology (BACT) and Reasonable operation and maintenance conditions procedures for the process and control apparatus may be are required by the Authority.

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e. Minor Sources in Nonattainment Areas. For New or modifications of minor sources (*App. A*) in nonattainment areas must use BACT (*App. B*) for all air pollutants. Best Available Control technology (BACT) will be employed, except that if:

f. Major Stationary Sources and Major Modifications (*App. A*) in Nonattainment Areas.

1) The new source is a major stationary source; or the proposed modification is a major modification it will achieve the LAER for the contaminants for which the area has been designated nonattainment. Must use LAER (*App. B*) for the pollutant(s) for which the area has been designated nonattainment; and

2) Must use BACT for all other pollutants.

g. New All Sources in Attainment or Unclassifiable Areas.

1) For new sources in attainment or nonclassifiable areas. Best Available Control technology (BACT) will be employed for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification must be used for all pollutants subject to a NSR.

2) Emissions from new or modified sources must not affect the attainment status or contribute to a NAAQS (*App. B*) violation in a downwind nonattainment area. This requirement is met if the emissions from the source do not exceed the threshold levels in table 4.02-2.

Table 4.02-2. Threshold Emission Levels for New or Modified Sources Upwind from Nonattainment Areas

Pollutant	Maximum Emission Rates				
	Annual Average	24 Hour Average	8 Hour Average	3 Hour Average	1 Hour Average
CO (<i>App. B</i>)	None	0.5 mg/m ³ <i>-(App. B)</i>	None	2 mg/m ³	None
SO ₂ (<i>App. B</i>)	1.0 µg/m ³ <i>(App. B)</i>	5 µg/m ³	None	25 µg/m ³	30 µg/m ³
PM ₁₀ (<i>App. B</i>)	1.0 µg/m ³	5 µg/m ³	None	None	None
NO ₂ (<i>App. B</i>)	1.0 µg/m ³	None	None	None	None

3) An offsetting emission reduction or an ERC (*App. B*) may be used to satisfy this subsection.

3. Emission Offsets for Major Stationary Sources in Nonattainment Areas.

a. Applicability.

(1) A new stationary source or a proposed major modification of an existing stationary source in a nonattainment area;

(2) Emissions of air pollutants that are in nonattainment status within the nonattainment area; and

(3) Fugitive emissions generated by point sources, and fugitive emissions from the facility.

b. Standard.

Emissions offsets must be sufficient to ensure that all allowable emissions from major and minor sources of the pollutant in nonattainment is < (*App. B*) the total actual emissions from all sources prior to the NSR application.

c. Requirements for Offsetting Emissions.

1) Allowable emission increases must be offset by actual emission reductions.

2) Proposed new emissions for the source or emission unit(s) providing the emissions offsets must be less than the current level for the source.

3) No emission reduction offset can be credited when the emissions from the source providing the offset exceed allowable emissions rates.

4) Emission reductions imposed by local, state, or federal rules, permits, or orders shall not be used.

5) Emission reductions must provide a net air quality benefit.

(a) For a marginal O₃ nonattainment area the VOC or NO_x emissions are reduced ≥9% for the nonattainment area.

(b) The determination for other nonattainment areas shall be made using 40 CFR Part 51, Appendix S.

6) Offsets must be federally enforceable.

7) A new or modified source requiring offsets shall not start operations before the emission reductions are achieved.

4. Equipment, Supplier, or Manufacturer Specification. (4.02 D) Nothing in this regulation shall be construed to

interpreted as authorizing the Board authority to require the use of emission control apparatus or other equipment, machinery or devices of any particular type from any particular supplier or produced by any particular manufacturer. BACT, RACT, or LAER technology available from any manufacturer may be prescribed for installation and operation.

5. Absence of Rule or Order. (4.02 D) The absence of any ordinance, resolution, rule or regulation or the failure to issue an order pursuant to this section shall not relieve a person from his or her the obligation to comply with applicable emission control requirements or with any other provision of the law.

6. Appeals. Appeals of a NSR decision must follow the requirements of section 2.05 (pg. 2-xx).

H. ADDITIONAL REQUIREMENTS FOR THE APPROVAL OF STATIONARY SOURCE NSR APPLICATIONS.

1. PSD Permitting. If the source is determined to be subject to PSD (*App. B*) permitting, the NSR approval shall

be delayed until ecology or EFSEC (*App. B*) can issue a PSD permit.

2. Content of the Approval. An evaluation of the operational feasibility and economic viability of the proposed emission control devices.

3. Conditions. Review. (4.02 (D)(1)) Every order of approval of a NSR issued pursuant to this section shall must be reviewed prior to issuance by a licensed professional engineer in the employ of the authority or the Washington State Department of ecology.

4. Expiration of An Approval of a NSR. An approved NSR shall expire for the following reasons:

a. Construction is not begun within 12 months after the receipt of the approval of the NSR;

b. Construction is discontinued for 12 months or more;

or
c. Construction is not completed within six months following the approved completion date.

5. Extension of An Approval of a NSR.

a. The source must apply for an extension at least 30 days prior to the expiration date.

b. The approval of an expired NSR is invalid, and the source must submit a new NSR application.

6. Notice of Completion. Notice of Violation. (4.02 F) The owner or applicant shall must notify the Board or Control Officer APCO in writing of the completion of construction, installation or establishment and the date upon which operation will commence within 30 days after the start of operations for the process and control apparatus on the NSR application.

7. Final Inspection. (4.02 F) Within thirty (30) days of receipt of notice of completion, the Board or Control Officer APCO may, inspect the construction, installation, or establishment the work approved by the NSR, and the Board or Control Officer may issue a Notice of Violation, NOV (*App. B*) if he finds that the construction, installation, or establishment the work is not in accordance with the plans, specifications or other information submitted to approved by the authority.

I. ADDITIONAL REQUIREMENTS FOR THE APPROVAL OF TEMPORARY SOURCE NSR APPLICATIONS.

1. Limited Operation Time. The permission to operate shall must be for a limited period of time (one year or less).

2. Conditions of Operation. and The authority may set specific conditions for operation during said period which shall include a requirement to comply with all applicable emission standards.

3. Action on Application. Within 30 days of receipt by the authority of a complete application, the authority must issue a final decision on the application.

J. CHANGE OF CONDITIONS. The owner or operator of any source may request a change in a NSR approval order, and the authority may approve the request when:

1. Conditions for Approval.

a. The change of conditions will not cause the source to exceed an emissions standard;

b. No ambient air quality or PSD (*App. B*) increment will be exceeded by the change;

c. The change will not adversely affect the authority in determining compliance with an emission standard; and

d. The order approving the change shall continue to require BACT as defined at the time of the original approval except where FCAA (*App. B*) requires LAER.

2. Public Involvement. Shall follow the requirements of section 2.04 (pg. 2-xx).

3. Format for the Request. Unless approved by the authority, the request shall follow the requirements of subsections 4.02D, 4.02E, and/or 4.02F (pg. 4-xx).

K. FEES. Assessment. (4.02 I) Any person submitting a Notice of Construction pursuant to the terms of this Regulation shall be assessed a fee by the Authority in accordance with the fee schedule in Article XIII, Section 13.02 of this regulation. See current fee schedule.

4.03 NEW SOURCE REVIEW FOR TOXIC AIR POLLUTANTS. Reserved for later use.

4.04 AIR OPERATING PERMITS (AOP). (*Chap. 173-401 WAC*)

A. PURPOSE. (6.01) The Yakima County Clean Air Authority shall administer an air operating permit program upon approval of its delegation request, pursuant to Chapter 173-401 WAC. Under this program any air contaminant source subject to Chapter 173-401-300 WAC shall be required to have an air operating permit. (*WAC 173-401-100*) To reference the appropriate WAC citations and to define any additional requirements or changes to implement a local AOP (*App. B*) program in accordance with chap. 173-401 WAC.

B. APPLICABILITY. As defined in WAC 173-401-300.

C. REQUIREMENTS. When multiple federal, state, or local laws or regulations contain requirements for an AOP source, all laws and regulations apply.

D. DEFINITIONS. As defined in WAC 173-401-200. When a term is not defined in WAC 173-401-200 see app. A for the definition.

E. PERMIT APPLICATIONS. As defined in chap. 173-401 WAC, Part V.

F. PERMIT CONTENT. As defined in chap. 173-401 WAC, Part VI; and

1. Emissions Standards. As required in sections 3.01 (pg. 3-xx) and 3.02 (pg. 3-xx) and app. D (pg. D-1).

2. Monitoring, Recordkeeping, and Reporting. As required in section 3.11 (pg. 3-xx).

3. Terms and Conditions. As required in applicable local rules and this regulation.

4. Operation and Maintenance. As required in subsection 3.00E (pg. 3-xx).

5. Outdoor and Agricultural Burning. As required in section 3.03 (pg. 3-xx).

6. Compliance and Enforcement. As required in subsection 1.07A, article 5 (pg. 5-1), and section 2.05 (pg. 2-xx).

7. Appeals. As required in section 2.05 (pg. 2-xx).

8. Orders. Any relevant order issued by the authority, ecology, or EPA.

G. PERMIT ISSUANCE, RENEWAL, REOPENINGS, AND REVISIONS. As defined in chap. 173-401 WAC, Part VII.

H. GENERAL PERMITS. As defined in chap. 173-401 WAC, Part VIII.

I. PUBLIC INVOLVEMENT. As defined in chap. 173-401 WAC, Part IX and section 2.04 (pg. 2-xx) of this regulation.

L. FEES. (6.02) Pursuant to RCW 70.94.161(14), the Authority shall allocate its fiscal 1994 air operating permit program development costs among the sources under its jurisdiction emitting one hundred tons or more per year of a regulated pollutant during calendar year 1992 and shall collect interim fees from these sources. Interim air operating permit fees collected by the Authority on behalf of the Department of Ecology shall be remitted to the Department by March 1, 1994.

Pursuant to RCW 70.94, (Bill 1089), the Authority shall determine, assess, and collect annual fees sufficient to cover the Authority's direct and indirect costs of implementing its air operating permit program.

Upon receiving delegation authority, air operating permit fees collected by the Authority on behalf of the Department of Ecology shall be collected from each source in two equal payments and shall be remitted to the Department by March 1 and June 30, respectively, of each year. All air operating permit fees collected by the Authority on its own behalf shall be deposited into an air operating permit account dedicated exclusively to the support of its Air Operating Permit Program. The payment schedule for all air operating permit fees collected by the Authority on its own behalf shall be four equal payments with each payment due at the beginning of the respective fiscal quarter. The fiscal year for the Authority begins July First.

All air operating permit fees collected by the Authority on behalf of itself shall be calculated according to Article XIII, Section 13.05 of this regulation.

1. As defined by chap. 173-401 WAC, Part X; and
2. Section 2.02 (pg. 2-xx) and current fee schedule.

4.05 VOLUNTARY LIMITS ON EMISSIONS. (New Section) (WAC 173-400-091)

A. PURPOSE. To establish a rule for any source who desires to voluntarily limit the potential to emit prescribed pollutants.

B. APPLICABILITY. Any source which volunteers to reduce the potential to emit to levels established by a regulatory order.

1. Synthetic Minor (SM) Status. This is available as an alternative to an AOP (App. B) if the source limits the potential to emit below the following levels:

- a. 100 TPY (App. B) of criteria pollutants (App. A) from all point sources at the facility; or
- b. 10 TPY of one HAP (App. A) listed in app. L from all point and/or fugitive sources; or
- c. 25 TPY of two or more HAPs from all point and/or fugitive sources.

2. All Other Sources. The source does not reduce the potential to emit below the levels in subsection 4.05B1 (pg. 4-xx).

C. CONDITIONS OF THE REGULATORY ORDER.

1. Limits the potential to emit any air pollutant to below voluntary and agreed levels.

2. The new limit for the potential to emit shall be < the annual emissions in subsection 4.05B1 or any standard under WCAA (App. B), FCAA (App. B), or the SIP (App. B).

3. Shall require sufficient monitoring, record keeping, and reporting as defined in section 3.11 (pg. 3-xx) to assure continuous compliance with applicable requirements, including emissions limitations set by a regulatory order (App. A).

4. Shall be federally enforceable.

5. Shall require a revision or revocation of the order for any proposed deviation.

D. ADMINISTRATIVE PROCEDURES.

1. Public participation in the permitting is defined in section 2.04 (pg. 2-xx).

2. The conditions of the order or decision to grant or deny SM status may be appealed as defined in section 2.05 (pg. 2-xx).

E. FEES. See current fee schedule.

4.06 EMISSION REDUCTION CREDITS AND BANKING. Reserved for later use.

4.07 ADMINISTRATIVE PERMITS. (New Section)

A. PURPOSE. To control emissions from sources, groups of sources, or activities which are not subjected to some other form of control.

B. APPLICABILITY. Any lawful activity or source subject to WCAA (App. B) within the jurisdiction of the authority. This section does not apply to any source or activity subject to any of the following actions required in other sections:

1. Orders of approval;
2. Individual permits; or
3. General rule permits.

C. DURATION.

1. The permit expires one year after issuance; or
2. When the board adopts a rule or issues an order to replace the permit.

D. REQUIREMENTS.

1. The permit requirements shall be as effective in controlling emissions as any other similar permit issued by the authority.

2. The APCO may use any lawful permit condition to control a source or activity permitted by this section.

3. Failure to comply with the requirements of this section voids the permit.

E. AMENDMENT OF THE PERMIT. If additional requirements are needed to prevent air pollution and/or protect property, health, safety, and comfort of persons from the effects of the permitted activity; the authority shall amend the permit. When an amendment is made, the authority must notify the responsible person of the limitations, and any requirement imposed will become a condition of the permit.

F. FEES. As set by the current fee schedule.

ARTICLE 5 - COMPLIANCE AND ENFORCEMENT

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5.00 GENERAL INFORMATION. (New Section)

A. PURPOSE. To establish the general compliance and enforcement procedures.

B. APPLICABILITY. Applies to all sources regulated by the authority or any violation of this regulation, any applicable law, or any permit, order or condition of approval issued by the authority.

C. INVESTIGATION. The authority will conduct investigations for the purpose of determining compliance with this regulation, any of the laws or regulations enforced by the authority, any permit issued by the authority, any order issued by the authority, or any condition of approval issued by the authority.

D. WRITTEN NOTICES.

1. The authority will serve a written notice to any person that has caused or allowed an alleged violation of this regulation, any applicable law, or any permit, order or condition of approval issued by the authority.

2. See subsection 3.01C3a3) (pg. 3-xx) for a NOV (*App. B*) for agricultural odors.

5.01 ADDITIONAL OR ALTERNATIVE ENFORCEMENT ACTIONS

A. PURPOSE. To describe other provisions to use with or in addition to civil or criminal penalties to avoid a violation or gain compliance.

B. APPLICABILITY. This section applies to any person found to be in violation of this regulation, any applicable law, or any permit, order or condition of approval issued by the authority. This section also applies to any situation where an imminent health threat exists.

C. CORRECTIVE ACTION ORDER. The authority may issue a corrective action order that describes the actions necessary to correct or avoid a violation. The order may be included as part of a written notice or issued as a separate document.

D. PROHIBITORY ORDER. The authority may issue a prohibitory order for the purpose of protecting human health or safety. The order will prohibit specific actions from being taken at a specific location.

E. INJUNCTIVE RELIEF. SECTION 8.04 — RESTRAINING ORDER — INJUNCTIONS. Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of these regulations or order issued thereunder, the Board, APCO (*App. B*) after providing notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order, or a temporary or permanent injunction or other appropriate order.

F. ASSURANCE OF DISCONTINUANCE. SECTION 8.03 — ASSURANCE OF DISCONTINUANCE. As an additional means of enforcing these regulations, the APCO Board may accept an assurance of discontinuance of any act or practice deemed in violation of this regulation, from any person engaging in, or who has engaged in, such act or practice. Any

such The assurance must shall specify a time limit during which such the discontinuance is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of these regulation, or order issued pursuant hereto, which make the alleged act or practice unlawful for the purpose of securing any injunction or other relief from the Superior Court as provided in RCW 70.94.425.

5.02 PENALTY FOR VIOLATION PENALTIES (8.01)

A. PURPOSE. To describe the provisions for assessing penalties for violations.

B. APPLICABILITY. This section applies to any person found to be in violation of this regulation, any applicable law, or any permit, order or condition of approval issued by the authority.

C. CRIMINAL PENALTIES. Shall be imposed in accordance to Chap. 70.94 RCW.

~~1~~ (8.01A) Any person who knowingly violates any of the provisions of these regulations or any ordinance, resolution, statute or regulation in force pursuant thereto shall be guilty of a crime and upon conviction thereof shall be punished by a fine of not more than Ten Thousand Dollars (\$10,000) or by imprisonment in the county jail for not more than one (1) year, or both.

~~2~~ (8.01B) Any person who negligently releases into the ambient air any substance listed by the Department of Ecology or as a hazardous air pollutant other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not more than Ten Thousand Dollars (\$10,000) or by imprisonment for not more than one (1) year, or both.

~~3~~ (8.01C) Any person who knowingly releases into the ambient air any substance listed by the Department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm shall be guilty of a crime and shall, upon conviction, be punished by a fine of not more than Fifty Thousand Dollars (\$50,000) or by imprisonment for not more than five (5) years, or both.

~~4~~ (8.01D) Any person who knowingly fails to disclose a potential conflict of interest under RCW 70.94.100 shall be guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Thousand Dollars (\$5,000).

D. CIVIL PENALTIES. SECTION 8.02 — ADDITIONAL OR ALTERNATIVE PENALTIES

1. General Civil Penalty. (8.02A) In addition to or as an alternate to any other penalty provided by law, any person who violates the provisions of Chap. 70.94 RCW, Chapter 70.120 RCW, or any other of the rules or and regulations, the Yakima County Clean Air authority may enforce under the RCW (*App. B*) a civil penalty in an amount not to exceed Ten Thousand Dollars (\$12,000) per day for each violation. Each

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such violation shall be a separate and distinct event, and, in the case of a continuing violation, each ~~days continuance~~ day shall be a separate and distinct violation.

2. Penalty for Failure to Comply with an Order. Any person who fails to take action as specified by an order issued under this Chapter article shall be liable for a civil penalty of not more than ~~Ten Thousand Dollars (\$12,000)~~ per day for each day of continued noncompliance.

E. INTEREST ON PENALTIES. (8.02B) Penalties incurred but not paid shall accrue interest beginning on the ~~ninety-first~~ (91st) day following the date that the penalty becomes due and payable at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed interest shall not begin to accrue until the ~~thirty-first~~ (31st) day following the final resolution of the appeal.

F. AIDING OR ABETTING. (8.02C) Each act of commission or omission which procures, aids or abets ~~the a~~ violation ~~described herein~~ shall be considered a separate violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.12(B).300.

G. UNDER-REPORTING. (8.02D) In addition to the other penalties provided above, any person knowingly under-reporting emissions or other information used to set fees or persons required to pay emissions or permit fees who are more than ~~ninety~~ (90) days late with ~~such~~ payments may be subject to a penalty equal to three (3) times the amount of the original fee owed.

H. DISBURSEMENT. (8.02E) All penalties recovered under this section by the authority shall be paid into the treasury of the authority and rendered into its funds.

~~F. In addition to the other provisions of this Section, a specific Civil Penalty may be imposed in violation of other Sections of this Regulation in accordance to the following schedule: (see page 8-3)~~

I. WITHHOLDING GRANTS. (8.02G) Public or private entities that are recipients or potential recipients of ~~department~~ grants from the authority, whether for air quality related activities or not, may have ~~such the~~ grants rescinded or withheld by the ~~department~~ authority for failure to comply with provisions of this ~~chapter~~ regulation.

J. PENALTY DETERMINATION. Civil Penalty Schedule. (8.02)

Section Violated	Civil Penalty per Written Notices Issued	First	Second*	Third*	Subsequent
SECTION 2.03 - Miscellaneous Provisions		\$100 to \$1,000	\$2,000 to \$3,000	go to Subsequent	Up to \$10,000
SECTION 4.01 - Registration		\$50 to \$500	\$1,000 to \$3,000	go to Subsequent	Up to \$10,000
SECTION 4.02 - Notice of Construction		\$50 to \$500	\$1,000 to \$3,000	go to Subsequent	Up to \$10,000
SECTION 5.01 - Outdoor Burning		Warning to \$25	\$25 to \$50	\$50 to \$100	Up to \$10,000
SECTION 5.02 - Regulations Applicable to All Outdoor Burning		\$25 to \$500	Up to \$1,000	Up to \$2,000	Up to \$10,000
SECTION 5.03 - Regulations Applicable to All Outdoor Burning within the Jurisdiction of the YCCAA, Local Cities, Towns, Fire Protection Districts and Conservation Districts		Warning to \$25	\$25 to \$50	\$50 to \$100	Up to \$10,000
SECTION 5.04 - Regulations Applicable to Permits Issued by YCCAA for All Other Outdoor Burning		\$25 to \$500	Up to \$1,000	Up to \$2,000	Up to \$10,000
SECTION 5.05 - Additional Restrictions on Outdoor Burning		\$25 to \$500	Up to \$1,000	Up to \$2,000	Up to \$10,000
SECTION 5.06 - General Standards for Maximum Permissible Emissions		\$50 to \$500 or Warning to \$25	Up to \$1,000 or \$25 to \$50	Up to \$2,000 or \$50 to \$100	Up to \$10,000
SECTION 5.07 - Minimum Emission Standards for Combustion and Incineration Sources		\$50 to \$500	Up to \$1,000	Up to \$2,000	Up to \$10,000
SECTION 5.09 - Minimum Standards or Procedures for Certain Source Categories		\$50 to \$500 or Warning to \$25	Up to \$1,000 or \$25 to \$50	Up to \$2,000 or \$50 to \$100	Up to \$10,000
SECTION 5.12 - Preventive Measures		\$50 to \$500	Up to \$1,000	Up to \$2,000	Up to \$10,000
ARTICLE IX - Woodstoves and Fireplaces		\$50 to \$500 or Warning to \$25	Up to \$1,000 or \$25 to \$50	Up to \$2,000 or \$50 to \$100	Up to \$10,000

* Civil Penalty suspended from the previous Written Notice may be added.

1. Evaluation Criteria. The following criteria shall be used to evaluate a violation prior to assessing a penalty:

- a. Gravity of the violation;
- b. Economic benefit gained by the violator;
- c. Authority expenses for investigating, notifying, and processing the documents for the violation; and
- d. When requested, the costs incurred by a fire department (*App. A*) to respond or suppress an illegal outdoor or agricultural fire.

2. Documentation. The APCO shall prepare and the board approve a policy and worksheets to implement the penalty determinations.

APPENDIX A

Definitions of Words and Phrases

This appendix contains a list of definitions for words and phrases used in more than one section of the regulation.

Defined words or phrases are identified with "(App. A)" in the text. The source of the definition is identified in *italics*.

Actual Emissions (*WAC 173-400-030(1)*) - The actual rate of emissions of a pollutant from an emission unit, as determined ~~in accordance with (a) through (c) of this subsection~~ by:

1. In general, actual emissions as of a particular date shall equal the average rate, in ~~tons per year~~ TPY (*App. B*), at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. Ecology or ~~an~~ the authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

2. Ecology or ~~an~~ the authority may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

3. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

Adequate Source of Heat (*WAC 173-433-030(1)*) - The ability to maintain 70 degrees ~~°Fahrenheit~~ (*App. B*) at a point three ~~(3)~~ feet above the floor in all normally inhabited areas of the dwelling.

Adverse Impact on Visibility (*WAC 173-400-030(2)*) - Visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case by case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area, and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas. These areas are listed in the definition for Class I Areas.

Agricultural Activity (*RCW 70.94.640 (5)(a)*) - The growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, grain, mint, hay, and dairy products. This definition applies only to subsection 3.01C3.

Agricultural Burning (*WAC 173-430-030(1)*) - The burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

Agricultural Land (*RCW 70.94.640 (5)(c)*) - At least five acres of land devoted primarily to the commercial production of livestock or agricultural commodities. This definition applies only to subsection 3.01C3.

Agricultural Operation - ~~The growing of crops, the raising of fowl, animals or bees as a gainful occupation.~~ (*WAC 173-430-030(2)*) - A farmer who can substantiate that the operation is commercial agriculture by showing the most recent year's IRS (*App. B*) schedule F form or proof that the

land is designated in a classification for agricultural use. It also includes burning conducted by irrigation district or drainage district personnel as part of water system management.

Ag Task Force (*WAC 173-430-030(3)*) - The state agricultural burning practices and research task force.

Air Contaminant (*WAC 173-400-030(3)*) - Dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. "Air pollutant" means the same as "air contaminant".

Air Pollution (*WAC 173-400-030(4)*) - The presence in the outdoor atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purpose of this regulation, air pollution shall not include air contaminants emitted in compliance with Chapter 17.21 RCW (*App. B*), the WA Pesticide Application Act, which regulates the application and control of various pesticides.

Air Pollution Episode - ~~A period of impaired air quality as determined by the Director of the Yakima County Clean Air authority, or the Washington State Department of ecology. A period when a forecast, alert, warning, or emergency air pollution stage is declared, as stated in chap. 173-435 WAC.~~

Allowable Emissions (*WAC 173-400-030(5)*) - The emission rate of a stationary source calculated using the maximum rated capacity of the stationary source (unless the stationary source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

1. The applicable standards as set forth in 40 CFR Part 60 or 61 (*App. B*);

2. Any applicable ~~state implementation plan~~ SIP (*App. B*) emissions limitation including those with a future compliance date; or

3. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

Ambient Air (*WAC 173-400-030(6)*) - The surrounding outside air.

Ambient Air Quality Standard (*WAC 173-400-030(7)*) - An established concentration, exposure time, and frequency of occurrence of air contaminant(s) in the ambient air which shall not be exceeded.

Authority - The Yakima Regional Clean Air Authority.

Best Available Control Technology (BACT) (*WAC 173-400-030(10)*) - ~~The term as defined in WAC 173-400.~~ An emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW (*App. B*) emitted from or which results from any new or modified stationary source, which the ~~permitting~~ authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel clean-

ing, clean fuels, or treatment or innovative fuel combustion techniques for the control of each such pollutant. In no event shall application of the BACT (App. B) result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60 and Part 61 (App. B), as they exist on March 1, 1996, or their later enactments as adopted by reference by the ecology. Emissions from any source utilizing clean fuels, or any other means, to comply with this definition shall not be allowed to increase above levels that would have been required under the definition of BACT in FCAA (App. B) as it existed prior to enactment of the FCAA Amendments of 1990.

Best Management Practice (BMP) (WAC 173-430-030(4)) - The criteria established by the state ag task force.

Board - The Board of Directors of the Yakima Regional Clean Air Authority.

Boilers (40 CFR 60.531) - A solid fuel burning appliance used primarily for heating spaces, other than the space where the appliance is located, by the distribution through pipes of a gas or fluid heated in the appliance. The appliance must be tested and listed as a boiler under accepted American or Canadian safety testing codes. A manufacturer may request an exemption in writing from EPA by stating why the testing and listing requirement is not practicable and by demonstrating that his appliance is otherwise a boiler.

Bubble (WAC 173-400-030(12)) - A set of emission limits which allows an increase in emissions from a given emission(s) unit(s) in exchange for a decrease in emissions from another emissions unit(s) pursuant to RCW 70.94.155 and WAC 173-400-120.

Burn Bans - Periods when ecology or the authority determine air contaminant levels are approaching or have reached a level which is harmful to public health or safety. Outdoor burning, agricultural burning, and burning with wood or coal heaters are severely curtailed during these periods.

Ceremonial Fires - Fires necessary for Native American ceremonies (i.e. conducted by and for Native Americans) if part of a religious ritual.

Class I Area (WAC 173-400-030(14)) - Any area designated under §§ 162 or 164 of FCAA (App. B) as a class I area. The following areas are the class I areas in Washington state:

1. Alpine Lakes Wilderness Area;
2. Glacier Peak Wilderness Area;
3. Goat Rock Wilderness Area;
4. Mount Adams Wilderness Area;
5. Mount Rainier National Park;
6. North Cascades National Park;
7. Olympic National Park;
8. Pasayten Wilderness Area; and
9. Spokane Indian Reservation.

Combustible Refuse - Any burnable waste material containing carbon in a free or combined state other than liquid or gasses.

Combustion and Incineration Sources (WAC 173-400-030(15)) - Units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes open outdoor burning.

Commenced Construction (WAC 173-400-030(16)) - The owner or operator has all the necessary preconstruction approvals or permits and either has:

1. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

Concealment (WAC 173-400-030(17)) - Any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

Construction/Demolition Debris - All material resulting from the construction, renovation, or demolition of buildings, roads, and other man-made structures.

Control Apparatus - Any device which prevents or controls the emission of any air contaminant.

Control Officer - The Air Pollution Control Officer of the Yakima Regional Clean Air Authority, or his duly authorized agents.

Corrective Action Order - An order issued by the authority for the purpose of causing a person to be in compliance with cited authority, state, or federal laws and regulations. The order will specify actions to be taken within a specific time.

Criteria Pollutant (WAC 173-420-040) - Air pollutants for which a NAAQS (App. B) has been promulgated under FCAA (App. B) (40 CFR Part 50) and their precursors.

Daylight Hours - 30 minutes before and 30 minutes after the published sunrise and sunset times in a newspaper of general circulation in the area.

De Minimis - The minimum threshold levels that exempts sources or source categories from complying with specific requirements.

DEQ Phase 2 Woodstove (WAC 173-433-150 (1)(c)) - A woodstove meeting the "Oregon Department of Environmental Quality Phase 2" emissions standards contained in Subsections (2) and (3) of Section 340-21-115, and certified in accordance with "Oregon Administrative Rules, Chapter 340, Division 21 - Woodstove Certification" dated November 1984.

Director - Executive Director and Control Officer.

Eight Hours (WAC 173-435-020(5)) - Any consecutive eight hours starting at any clock hour.

Emission (WAC 173-400-030(21)) - A release of air contaminants into the ambient air.

Emission Reduction Credit (ERC) (WAC 173-400-030(22)) - A credit granted pursuant to under WAC 173-400-131. This is a voluntary reduction in emissions.

Emission Standards - A limitation on the release of a contaminant or multiple contaminants into the ambient air. (WAC 173-400-030(23)) A requirement established under FCAA (App. B) or WCAA (App. B) which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the

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operation or maintenance of a source to assure continuous emission reduction and any design, equipment work practice, or operational standard promulgated under FCAA or WCAA.

Emissions Unit (*WAC 173-400-030(24)*) - Any part of a stationary source or source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA (*App. B*), chapter 70.94 or 70.98 RCW (*App. B*).

EPA Certified Woodstove (*WAC 173-433-030(2)*) - A woodstove that meets the emission performance standards when tested by an accredited independent laboratory and labeled according to procedures specified by the EPA (*App. B*) under 40 CFR Part 60, Subpart AAA (*App. B*) - Standards of Performance for Residential Wood Heaters as amended through July 1, 1990.

EPA Exempted Device - A device that is not required to be tested under 40 CFR Part 60, Subpart AAA.

Equipment - Any stationary or portable device or any part thereof capable of causing the emission of any air contaminant into the ambient air.

Excess Emissions (*WAC 173-400-030(25)*) - Emissions of an air pollutant in excess of any applicable emissions standard.

Farmer (*WAC 173-430-030(7)*) - Any person engaged in the business of growing or producing for sale upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons using such products as ingredients in a manufacturing process, or persons growing or producing such products primarily for their own consumption.

~~**Federal Land Manager** (*WAC 173-400-030(29)*) - With respect to any lands in the United States, the Secretary of the department with authority over such lands.~~

~~**Fire Department** - Fire control agency such as city fire departments, local fire districts or the Washington State Department of Natural Resources *DNR* (*App. B*).~~

Fire Fighting Training Fires - Fires for the instruction in methods of fire fighting, including but not limited to training to fight structural fires, aircraft crash rescue fires, and forest fires.

Fireplace (*RCW 70.94.453(3)*) - Any permanently installed masonry fireplace; or any factory-built metal solid fuel burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.

Firewood - Bare untreated wood used as fuel in a wood heater, solid fuel burning device, ceremonial fire, or a recreational fire.

First Stage of Impaired Air Quality - Can be declared by the authority when particulate ten-microns PM_{10} and smaller in aerodynamic diameter are at an ambient level of seventy-five 60 micrograms per cubic meter $\mu g/m^3$ (*App. B*) of air measured on a twenty-four 24 hour average, or when carbon monoxide *CO* (*App. B*) is at an ambient level of eight ppm parts of contaminant per million parts of air by volume measured on an eight-hour average.

Fossil Fuel-fired Steam Generator (*WAC 173-400-030(30)*) - A device, furnace, or boiler used in the process of

burning fossil fuel for the primary purpose of producing steam by heat transfer.

Fugitive Dust (*WAC 173-400-030(31)*) - A particulate emission made airborne by forces of wind, man's activity, or both. Unpaved roads, construction sites, and tilled land are examples or areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

Fugitive Emissions (*WAC 173-400-030(32)*) - Emissions which do not pass and which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Furnace (*40 CFR 60.531*) - A solid fuel burning appliance that is designed to be located outside of ordinary living areas and that warms spaces other than the space where the appliance is located, by the distribution of air heated in the appliance through ducts. The appliance must be tested and listed as a furnace under accepted American or Canadian safety testing codes unless exempted from this provision by the EPA. A manufacturer may request an exemption in writing from the EPA by stating why the testing and listing requirement is not practicable and demonstrating that his appliance is otherwise a furnace.

Garbage - Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking or serving of food.

General Process Unit Source (*WAC 173-400-030(33)*) - An emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

Good Agricultural Practice (*RCW 70.94.640 (5)(b)*) - The economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area. This definition applies only to subsection 3.01C3.

Good Engineering Practice (GEP) (*WAC 173-400-030(34)*) - A calculated stack height based on the equation specified in WAC 173-400-200 (2)(a)(ii).

Hazardous Air Pollutant - Any air pollutant listed in accordance with section 112(b), FCAA (*App. B*).

~~**Hearings Board** - Hearings Boards as established by RCW 43.21B.~~

Home Barbecues - A small wood, charcoal, LP (*App. B*) gas, or natural gas fire for the purpose of cooking.

Hour *WAC 173-435-020(4)* - A 60 minute period, beginning and ending on a clock hour.

Impaired Air Quality - A first or second stage impaired air quality condition declared by ecology or the authority in accordance with WAC 173-433-140.

Incinerator (*WAC 173-400-030(35)*) - A furnace for the destruction of waste, or oxidizing a waste to facilitate disposal used primarily for the thermal destruction of waste.

Land Clearing Burning - Outdoor fires consisting of residue of a natural character such as trees, stumps, shrubbery of other natural vegetation arising from land clearing projects and burned on the lands on which such materials originated. Outdoor burning of trees, stumps, shrubbery, or other natural vegetation from land clearing projects (i.e. projects that clear

the land surface so it can be developed, used for a different purpose, or left unused).

Lowest Achievable Emission Rate (LAER) (WAC 173-400-030(38)) - The term as defined in WAC 173-400-030(38). The rate of emissions for any source which reflects the more stringent of:

1. The most stringent emission limitation which is contained in the SIP (App. B) for a class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that the limitations are not achievable; or

2. The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event may the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

Major Modification (WAC 173-400-030(40)) - Any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the FCAA (App. B). Any net emissions increase that is considered significant for volatile organic compounds VOCs (App. B) or nitrogen oxides NO_x (App. B) shall be considered significant for ozone O₃ (App. B). A physical change or change in the method of operation shall not include:

1. Routine maintenance, repair, and replacement;

2. Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

3. Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425 (App. B);

4. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

5. Use of an alternative fuel or raw material by a stationary source which:

a. The stationary source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51 Subpart I, or 40 CFR 51.166; in a prevention of significant deterioration permit or notice of construction approval; or

b. The stationary source is approved to use under any federally-enforceable notice of construction NSR (App. B) approval or a PSD (App. B) permit issued by the environmental protection agency EPA (App. B) or ecology;

6. An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976; pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51 Subpart I, or 40 CFR 51.166; in a prevention of significant deterioration permit or a notice of construction NSR approval;

7. Any change in ownership at a stationary source.

Major Stationary Source (WAC 173-400-030(41)) -

1. Any stationary source which:

a. Emits or has the potential to emit one hundred tons per year 100 TPY (App. B) or more of any air contaminant regulated by the state WCAA (App. B) or Federal Clean Air Acts FCAA (App. B); or

b. Is located in a "marginal" or "moderate" ozone O₃ (App. B) nonattainment area and which emits or has the potential to emit one hundred tons per year 100 TPY (App. B) or more of volatile organic compounds VOCs (App. B) or oxides of nitrogen NO_x (App. B).

2. Any stationary source (or group of stationary sources) which:

a. Is located in a "serious" carbon monoxide CO (App. B) nonattainment area where stationary sources contribute significantly to carbon monoxide CO levels and which emits or has the potential to emit fifty tons per year 50 TPY (App. B) or more of carbon monoxide CO; or

b. Is located in a "serious" particulate matter (PM₁₀) (App. B) nonattainment area and which emits or has the potential to emit seventy tons per year 70 TPY or more of PM₁₀ emissions.

3. Any physical change that would occur at a stationary source not qualifying under (a) or (b) parts 1 or 2 of this subsection definition as a major stationary source, if the change would constitute a major stationary source by itself;

4. A major stationary source that is major for VOCs or NO_x shall be considered major for ozone O₃ (App. B);

5. The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the stationary source belongs to one of the following categories of stationary sources or the source is a major stationary source due to (b) part 2 of this subsection definition;

- a. Coal cleaning plants (with thermal dryers);
- b. Kraft pulp mills;
- c. Portland cements plants;
- d. Primary zinc smelters;
- e. Iron and steel mills;
- f. Primary aluminum ore reduction plants;
- g. Primary copper smelters;
- h. Municipal incinerators capable of charging more than two hundred fifty 250 tons of refuse per day;
- i. Hydrofluoric, sulfuric, or nitric acid plants;
- j. Petroleum refineries;
- k. Lime plants;
- l. Phosphate rock processing plants;
- m. Coke oven batteries;
- n. Sulfur recovery plants;
- o. Carbon black plants (furnace process);
- p. Primary lead smelters;
- q. Fuel conversion plants;
- r. Sintering plants;
- s. Secondary metal production plants;
- t. Chemical process plants;

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u. Fossil-fuel boilers (or combination thereof) totaling more than ~~two hundred fifty million~~ 250,000,000 British thermal units BTUs (*App. B*) per hour heat input;

v. Petroleum storage and transfer units with a total storage capacity exceeding ~~three hundred thousand~~ 300,000 barrels;

w. Taconite ore processing plants;

x. Glass fiber processing plants;

y. Charcoal production plants;

z. Fossil fuel-fired steam electric plants of more than ~~two hundred fifty million~~ 250,000,000 British thermal units BTUs per hour heat input; and

aa. Any other stationary source category which, as of August 7, 1970, was being regulated under sections 111 or 112 of the ~~Federal Clean Air Act~~ FCAA (*App. B*).

6. For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two digit code) as described in the ~~Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement~~ North American Industry Classification System (NAICS) as amended.

7. This definition does not apply to section 4.04.

Materials Handling (*WAC 173-400-030(43)*) - The handling, transporting, loading, unloading, storage, and transfer of materials with no significant chemical or physical alteration.

Maximum Available Control Technology (MACT) - A standard developed for the control of hazardous air pollutant emissions from specific source categories regulated under 40 CFR Part 63. The full definitions for MACT for existing sources, MACT for new sources, and MACT floor are in 40 CFR 63.51.

Minor Source - Any stationary source which is not a major stationary source (*App. A*).

Modification (*WAC 173-400-030(44)*) - Any physical change in or change in the method of operation of a stationary source that increases the amount of any air contaminant emitted by ~~such~~ the source or that results in the emission of any air contaminant not previously emitted. The term modification shall be construed consistent with the definition of modification in section 7411, Title 42, ~~United State Code~~ USC (*App. B*) and with rules implementing that section.

Multiple Chamber Incinerator - Any incinerator consisting of ~~three or more refractory lined combustion chambers in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.~~

National Emission Standards for Hazardous Air Pollutants (NESHAPS) (*WAC 173-400-030(45)*) - The federal regulations set forth in 40 CFR Part 61 and 63 (*App. B*).

Natural Vegetation - Unprocessed plant material from herbs, shrubbery, and trees, including grass, weeds, leaves, clippings, prunings, brush, branches, roots, stumps, and trunk wood.

Net Emissions Increase (*WAC 173-400-030(47)*)

1. The amount by which the sum of the following exceeds zero:

a. Any increase in actual emissions from a particular change or change in method of operation at a source; and

b. any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

2. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date ~~ten~~ five years before construction on the particular change commences and the date that the increase from the particular change occurs.

3. An increase or decrease in actual emissions is creditable only if:

a. It occurred no more than one year prior to the date of ~~s~~submittal of a complete notice of construction application for the particular change, or it has been documented by an emission reduction credit, in which case the credit shall expire ~~ten~~ five years after the date of original issue of the ERC (*App. B*). Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.

b. Ecology or the authority has not relied on it in issuing any permit or order of approval for the source under regulations approved ~~pursuant to~~ under 40 CFR 51 Subpart I or the EPA (*App. B*) or ecology has not relied on it in issuing a PSD (*App. B*) permit pursuant to 40 CFR 52.21, which order or permit is in effect when the increase in actual emissions from the particular change occurs.

4. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

5. A decrease in actual emissions is creditable only to the extent that:

a. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

b. It is federally enforceable at and after the time that actual construction on the particular change begins;

c. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

d. Ecology or the authority has not relied on it in issuing any permit or order of approval under regulations approved pursuant under 40 CFR 51 Subpart I (*App. B*), the EPA (*App. B*) or ecology has not relied on it in issuing a PSD (*App. B*) permit pursuant to 40 CFR 52.21, or ecology or the authority has not relied on it in demonstrating attainment or reasonable further progress.

6. An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular

pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed ~~one hundred eighty~~ 180 days.

New Source (WAC 173-400-030(48))

1. The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such a source or that results in the emission of any air contaminant not previously emitted, and;

2. Any other project that constitutes a new source under the Federal Clean Air Act FCAA (App. B).

New Source Performance Standards (NSPS) (WAC 173-400-030(49)) - The federal regulations set forth in 40 CFR Part 60 (App. B).

New Source Review (NSR) - The process for the review and approval or denial of a new source review application.

New Source Review Application - Has the same meaning as notice of construction application.

New Wood Stove (RCW 70.94.453(4)) - A wood stove or wood heater that is sold at retail, bargained, exchanged, or given away for the first time by the manufacturer, the manufacturer's dealer or agency, or a retailer; and has not been so used to have become what is commonly known as "second hand" within the ordinary meaning of that term.

Nonattainment Area - A clearly delineated geographic area which has been designated by EPA ~~promulgation as exceeding a national ambient air quality standard or standards because it does not meet (or it contributes to ambient air quality in a nearby area that does not meet) a NAAQS(s) (App. B) for one or more of the criteria pollutants (App. A), which include CO (App. B), PM (PM₁₀ and PM_{2.5}) (App. B), SO₂ (App. B), NO₂ (App. B), Pb (App. B), and O₃ (App. B).~~

Notice of Construction Application (NOC) (WAC 173-400-030(51)) - A written application to permit construction of a new source, modification of an existing source or replacement or substantial alteration of control technology at an existing stationary source. ~~Replacement or substantial alteration of control technology does not include routine maintenance, repair, or parts replacement. This application has the same meaning as a NSR application.~~

Nuisance - An emission of smoke or any other air pollutant that unreasonably interferes with the use and enjoyment of the property upon which it is deposited.

Opacity (WAC 173-400-030(52)) - The degree to which an object seen through a plume is obscured, stated as a percentage.

Open Fire - A fire where any material is burned in the open or in a receptacle other than a furnace, incinerator, or other equipment connected to a stack or chimney.

Order - An order issued by ecology or the authority under chap. 70.94 RCW (App. B), including, but not limited to RCW 70.94.332, RCW 70.94.152, RCW 70.94.153, and RCW 70.94.141(3), and includes, where used in the generic sense, the terms order, corrective action order, order of approval, and regulatory order.

Order of Approval or Approval Order (WAC 173-400-030(55)) - A regulatory order issued by ecology or the authority to approve the ~~notice of construction NSR (App. B) application for a proposed new source or modification, or the~~

a replacement or substantial alteration of control technology at an existing stationary source, or to approve alternative methods of ACM (App. B) removal.

Other Outdoor Burning - Any type of outdoor burning not specified in WAC 173-425-020 (1) or (2)(a) → (i), including, but not limited to, any outdoor burning necessary to protect public health and safety.

Outdoor Burning (WAC 173-400-030(53)) - The combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion.

Owner or Operator (40 CFR 51.100(f)) - ~~Includes the person who leases, supervises or operates the equipment or control apparatus. Any person who owns, leases, operates, controls, or supervises a facility, building, structure, or installation which directly or indirectly result or may result in emissions of any air pollutant for which a NAAQS (App. A) is in effect.~~

Particle - A small discrete mass of solid or liquid matter. (General size range from submicron to 2000 micron).

Particulate Matter or Particulate (PM) (WAC 173-400-030(56)) - Any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

Particulate Matter Emissions (WAC 173-400-030(57)) - All finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 (App. B) or by a test method specified in the ~~Washington state implementation plan SIP (App. B).~~

Parts Per Million (ppm) (WAC 173-400-030(58)) - Parts of a contaminant per million parts of gas, by volume, exclusive of water or particulate.

Pellet Stove (WAC 173-433-030(6)) - A pellet stove with an air-to-fuel ratio equal to or greater than \geq (App. B) 35.0 when tested by an accredited laboratory in accordance with methods and procedures specified by the EPA in 40 CFR Part 60 Appendix A, Reference Method 28A - Measurement of Air to Fuel Ratio and Minimum Achievable Burn Rates for Wood-fired Appliances as amended through July 1, 1990.

Person (WAC 173-400-030(59)) - Any individual, firm, public or private corporation, association, partnership, political subdivision, municipality or governmental agency.

PM_{2.5} - Ultra finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air.

PM₁₀ (WAC 173-400-030(60)) - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J (App. B) and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

PM₁₀ Emissions (WAC 173-400-030(61)) - Finely divided solid or liquid material, including condensible particulate matter, with an aerodynamic diameter less than or equal

to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in appendix M of 40 CFR Part 51 or by a test method specified in the Washington state implementation plan SIP (App. B).

Potential to Emit (WAC 173-400-030(62)) - The maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

Prevention of Significant Deterioration (PSD) (WAC 173-400-030(63)) - The program set forth in WAC 173-400-141.

Rare and Endangered Plant Regeneration Fires (WAC 173-425-030(19)) - Fires necessary to promote the regeneration of rare and endangered plants found within natural area preserves as identified in chap. 79.70 RCW.

Reasonable Alternative - A method for disposing of organic refuse (such as natural vegetation) that is available, reasonably economical, and less harmful to the environment than burning.

Reasonably Available Control Technology (RACT) (WAC 173-400-030(66)) - The lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall

be adopted only after notice and opportunity for comment are afforded.

Recreational Fire - Cooking fires, campfires and bonfires using charcoal or firewood that occur in designated areas or on private property for cooking, pleasure, or ceremonial purposes. Fires used for debris disposal are not considered recreational fires.

Regulation - Any regulation and subsequently adopted additions or amendments thereto of the Restated Regulation 1 of Yakima County Regional Clean Air Authority.

Regulatory Order (WAC 173-400-030(67)) - An order issued by ecology or the authority to an air contaminant source which applies to that source, any applicable provision of chap. 70.94 RCW, or the rules adopted thereunder, or the regulations of the authority.

Residential Burning - The outdoor burning consisting of leaves, clippings, and prunings, and other yard and gardening refuse originating on lands immediately adjacent and in close proximity to a human dwelling and burned on such lands by the property owner or his or her their designee.

Salvage Operation - An operation conducted in whole, or in part, for the salvaging or reclaiming of any product or material.

Seasoned Wood (WAC 173-433-030(8)) - Wood of any species that has been sufficiently dried so as to contain twenty percent ($\leq 20\%$) or less moisture by weight.

Second Stage of Impaired Air Quality - Can be declared by the authority when particulate ten microns and smaller in aerodynamic diameter PM_{10} is at an ambient level of one hundred and five 105 micrograms per cubic meter $\mu g/m^3$ (App. B) of air measured on a twenty-four 24 hour average.

Significant (WAC 173-400-030(68) & 40 CFR 52.21 (b)(23)(i)) - In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emission equal to or greater than \geq (App. B) any one of the following rates:

Pollutant	Tons/Year TPY (App. B)
Carbon monoxide CO (App. B)	100
Nitrogen oxides NO _x (App. B)	40
Sulfur dioxide SO ₂ (App. B)	40
Particulate matter (PM) (App. B)	25
Fine particulate matter (PM ₁₀) (App. B)	15
Volatile organic compounds (VOC) (App. B)	40
Lead Pb (App. B)	0.6
Fluorides	3
Sulfuric acid H ₂ SO ₄ (App. B) mist	7
Hydrogen sulfide (H ₂ S) (App. B)	10
Total reduced sulfur TSR (App. B) (including H ₂ S)	10

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Municipal waste combustor organics	0.0000035
(measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO ₂ and hydrogen chloride HCl)	40 or 36 megagrams/yr
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 or 45 megagrams/yr

Significant Visibility Impairment (*WAC 173-400-030(69)*) - Visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of the class I area. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the class I area and frequency and timing of natural conditions that reduce visibility.

~~Silvicultural Burning - Burning on any land the Department of Natural Resources protects per Chapter 70.94 RCW and pursuant to Chapter 76.04 RCW. - Outdoor burning relating to the following activities for the protection of life or property and/or the public health, safety, and welfare:~~

1. Abating a forest fire hazard;
2. Prevention of a forest fire hazard;
3. Instruction of public officials in methods of forest fire fighting;
4. Any silvicultural operation to improve the forest lands of the state; and
5. Silvicultural burning used to improve or maintain fire dependent ecosystems for rare plants or animals within state, federal, and private natural area preserves, natural resource conservation areas, parks, and other wildlife areas.

~~Small Business - Any business enterprise employing twenty (20) or less persons; the operation of which does not present any potential hazard to public health.~~

Solid Fuel Burning Device (*WAC 173-433-030(9)*) - A device that burns wood, coal, or other nongaseous or nonliquid fuels, which includes any device burning any solid fuel except those prohibited by WAC 173-433-120. This also includes any devices used for aesthetic or space-heating purposes in a private residence for commercial establishment which has a heat input less than one million Btu per hour. In this regulation the term "wood or coal heater" is intended to have the same meaning as solid fuel burning device.

Source (*WAC 173-400-030(70)*) - All of the emissions unit(s), including quantifiable fugitive emissions, that are located on one or more contiguous or adjacent properties and are under the control of the same person or persons under common control whose activities are ancillary to the production of a single product or functionally related group of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the North American Industry Classification System (NAICS) as amended.

Stack (*WAC 173-400-030(72)*) - Any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

~~Stack Height - The height of an emission point measured from the ground level elevation at the base of the stack.~~

Standard Conditions (*WAC 173-400-030(74)*) - A temperature of 20 °C (68°F) and a pressure of 760 mm (29.92 inches) of mercury Hg (*App. B*).

State Implementation Plan (SIP) (*40 CFR 51.100(j)*) - Plans required by EPA (*App. B*) to submitted by ecology (*App. B*) to either maintain or obtain compliance with existing NAAQS (*App. B*) and approved or promulgated under section 110 of FCAA (*App. B*).

Stationary Source (*WAC 173-400-030(75)*) - Any building, structure, facility or installation that which emits or may emit any air contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the FCAA.

Storm and Flood Debris Burning - Outdoor burning of natural vegetation from storms or floods that have occurred in the previous two years and resulted in an emergency being declared or proclaimed in the area by the city, county, or state government.

Synthetic Minor (*WAC 173-400-030(77)*) - Any source whose potential to emit has been limited below applicable thresholds by means of a federally enforceable order, rule, or permit condition.

Threshold Level - The level that delineates whether or not a source must comply with applicable requirements.

Toxic Air Pollutant (TAP) or Toxic Air Contaminant (*WAC 173-400-030(80)*) - Any class A or B toxic air pollutant listed in WAC 173-460-150 and 173-460-160. The term toxic air pollutant may include PM (*App. B*) and VOCs (*App. B*) if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 and/or 173-460-160. The term toxic air pollutant does not include PM and VOCs as generic classes of compounds.

Treated Wood (*WAC 173-433-030(10)*) - Any species of wood that has been chemically impregnated, painted, or similarly modified to prevent weathering and deterioration.

Twenty-four (24) Hours (*WAC 173-400-020(8)*) - Any consecutive 24 hours starting at any clock hour.

Tumbleweed Burning - Outdoor burning to dispose of dry plants (typically Russian thistle and tumbleweed mustard plants), that have been broken off, and rolled about, by the wind.

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Uncertified Wood Stove (WAC 173-433-030(2)) - A woodstove that does not meet emission performance standards when tested by an accredited independent laboratory or is not labeled according to procedures specified by EPA in 40 CFR Part 60, Subpart AAA, Standards of Performance for Residential Wood Heaters as amended through July 1, 1990.

Unclassifiable Area (FCAA, Sec. 107 (d)(1)(A)(iii)) - Any area that cannot be classified on the basis of available information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant.

Urban Growth Area - Land generally including and associated with an incorporated city which is designated by the county for urban growth under RCW 36.70A.030.

Volatile Organic Compound (VOC) (WAC 173-400-030(84)) - ~~includes:~~ Any compound of carbon, excluding CO, CO₂, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes:

1. Any such organic compound ~~other~~ except than the following, which have been determined to have negligible photochemical reactivity:

- a. Methane;
- b. Ethane;
- c. Methylene chloride (dichloromethane);
- d. 1,1,1-trichloroethane (methyl chloroform);
- e. 1,1,1,2-trichloro 1,2,2-trifluoroethane (CFC-113);
- f. Trichlorofluoromethane (CFC-11);
- g. Dichlorodifluoromethane (CFC-12);
- h. Chlorodifluoromethane (HCFC-22);
- i. Trifluoromethane (HFC-23);
- j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
- k. Chloropentafluoroethane (CFC-115);
- l. 1,1,1,2-trifluoro 2,2-dichloroethane (HCFC-123);
- m. 1,1,1,2-tetrafluoroethane (HFC-134a);
- n. 1,1-dichloro 1-fluoroethane (HCFC-141b);
- o. 1-chloro 1,1-difluoroethane (HCFC-142b);
- p. 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124);
- q. Pentafluoroethane (HFC-125);
- r. 1,1,2,2-tetrafluoroethane (HFC-134);
- s. 1,1,1-trifluoroethane (HFC-143a);
- t. 1,1-difluoroethane (HFC-152a);
- u. ~~Parap~~chlorobenzotrifluoride PCBTF);
- v. Cyclic, branched, or linear completely methylated siloxanes;
- w. Acetones perchloroethylene (tetrachloroethylene); and

x. Perfluorocarbon compounds which fall into these classes:

- 1) Cyclic, branched, or linear completely fluorinated alkanes;
- 2) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; and
- 3) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

2. For the purpose of determining compliance with emission limits, VOC (*App. B*) will be measured by the appropriate methods in 40 CFR Part 60 Appendix A. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds

may be excluded as VOC if the amount of such the compounds is accurately quantified, and such the exclusion is approved by ecology or the authority.

3. As a precondition to excluding these negligibly-reactive compounds as VOC or at any time thereafter, ecology or the authority may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of ecology or the authority, the amount of negligibly-reactive compounds in the source's emissions.

Weed Abatement Fire - Outdoor burning to dispose of weeds that is not regulated under chap. 173-430 WAC, which applies to agricultural burning.

Wood Heater - Has the same meaning as "solid fuel burning device."

Woodsmoke Control Zone - An area where the use of wood heaters and outdoor and agricultural burning is further restricted to reduce the impact of air pollution during an impaired air quality or air pollution episode. The legal land description is located in app. H, and it is shown on the map in app. I.

Wood Stove (WAC 173-433-030(11)) - An enclosed solid fuel burning device capable of and intended for residential space heating and domestic water heating that meets the following criteria contained in 40 CFR 60 Subpart AAA - Standards of Performance for Residential Wood Heaters as amended through July 1, 1990:

1. An air-to-fuel ratio in the combustion chamber averaging less than 35.0, as determined by EPA Reference Method 28A;

2. A useable firebox volume of less than 20 cubic feet;

3. A minimum burn rate less than 11 lbs./hr. (5 kg/hr) as determined by EPA Reference Method 28;

4. A maximum weight of 1764 lbs. (800 kg), excluding fixtures and devices that are normally sold separately, such as flue pipe, chimney, and masonry components not integral to the appliance.

A wood stove is a type of wood heater in this regulation. The term "wood stove" does not include wood cook stoves.

Yakima CO Nonattainment Area - The legal description is located in appendix H, and it is shown on the map in app. I.

Yakima PM₁₀ Nonattainment Area - The legal description is located in appendix H, and it is shown on the map in app. I.

Yakima Urban Area - The legal land description is located in appendix H, and it is shown on the map in app. I.

APPENDIX B

Definitions of Acronyms and Abbreviations (*New Appendix*)

This appendix contains the definitions for acronyms and abbreviations used in more than one section of the regulation. Defined acronyms or abbreviations are identified with "(App. B)" in the text. The source is identified in italics.

ac. - Acre

ACM - Asbestos Containing Material.

AHERA - Asbestos Hazard Emergency Response Act also known as Title II of Toxic Substances Control Act (TSCA).

AOP - Air Operating Permit.

APCO - Air Pollution Control Officer.

ASIL - Acceptable Source Impact Level.

ASTM - American Society for Materials Testing.

BACT - Best Available Control Technology.

BMP - Best Management Practice.

BTU - British Thermal Unit.

cf - Cubic Feet.

CFR - Code of Federal Regulations

CO - Carbon Monoxide.

°C - Degrees Centigrade.

°F - Degrees Fahrenheit.

DNR - Washington State Department of Natural Resources.

DOA - Washington State Department of Agriculture.

DOT - Washington State Department of Transportation.

dscf - Dry Standard Cubic Foot.

dscm - Dry Standard Cubic Meter.

Ecology - Washington State Department of Ecology

EPA - U.S. Environmental Protection Agency.

ERC - Emission Reduction Credit(s).

FAA - Federal Aviation Administration.

f/cc - Fibers per cubic centimeter

FCAA - Federal Clean Air Act also know as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L.. 101-549, November 15, 1990.

ft. - Feet.

GEP - Good Engineering Practice.

GIS - Geographic Information System.

HAP - Hazardous Air Pollutant.

HCl - Hydrogen Chloride.

Hg - Mercury.

hr. - Hour.

H₂S - Hydrogen Sulfide.

H₂SO₄ - Sulfuric Acid.

IRS - Internal Revenue Service.

kg - Kilogram.

L&I - Washington State Department of Labor and Industries.

LAER - Lowest Achievable Emission Rate.

lbs - Pounds.

lbs./hr. - Pounds per Hour.

lbs./yr. - Pounds per Year.

lf - Linear Feet.

LP - Liquid Propane.

MACT - Maximum Available Control Technology.

m - Meter.

µg/m³ - Micrograms per Cubic Meter.

mg/m³ - Milligrams per Cubic Meter.

ml - Millileter.

mm - Millimeter.

MTBE - Methyl Tertiary Butyl Ether.

NAAQS - National Ambient Air Quality Standard.

NESHAPS - National Emission Standards for Hazardous Air Pollutants.

NF - National Forest.

NH₃ - Ammonia.

NOC - Notice of Construction.

NOV - Notice of Violation.

NO₂ - Nitrogen Dioxide.

NO_x - Oxides of Nitrogen.

NPDES - National Pollution Discharge Elimination System.

NSPS - New Source Performance Standards.

NSR - New Source Review.

O₂ - Oxygen.

O₃ - Ozone.

OPACA - Olympic Air Pollution Control Authority.

OSHA - Occupational Health and Safety Administration.

Pb - Lead.

PCE - Perchloroethylene.

PLM - Polarized Light Microscopy.

ppm - Parts per Million

PSCAA - Puget Sound Clean Air Agency.

PSD - Prevention of Significant Deterioration.

QA/QC - Quality Control/Quality Assurance.

RACT - Reasonably Available Control Technology.

RCW - Revised Code of Washington

SCAPCA - Spokane County Air Pollution Control Authority.

SEPA - State Environmental Policy Act, chap. 43.21c RCW & chap. 197-11 WAC.

sf - Square Feet.

SFBD - Solid Fuel Burning Device.

SIP - State Implementation Plan.

SO₂ - Sulphur Dioxide.

SO_x - Oxides of Sulphur.

SM - Synthetic Minor

TAP - Toxic Air Pollutant.

TPY - Tons per Year.

TRS - Total Reduced Sulfur Compounds.

TSP - Total Suspended Particulate.

UBC - Uniform Building Code.

USC - United States Code.

USDA - United States Department of Agriculture.

USDA-FS - U.S. Department of Agriculture, Forest Service.

UTM - Universal Transmercator

VOC - Volatile Organic Compound.

VOCs - Volatile Organic Compounds.

VP - Vapor Pressure.

WAC - Washington Administrative Code.

WCAA - Washington Clean Air Act, chap. 70.94 RCW.

YRCAA - Yakima Regional Clean Air Authority.

> - Greater Than.

< - Less Than.

≥ - Equal to or More Than.≤ - Equal to or Less Than.= - Equals.

APPENDIX C
Subject Index

This appendix contains an index by section and page numbers.¹

Abbreviations**Advisory Council****Agricultural Burning**

Annual agricultural burning
Insects, diseases, and noxious weed control
Irrigation or drainage ditches
Orchard prunings
Orchard removal

Air Pollution Control Officer (APCO)

Delegated authority
Powers and duties

Air Pollution Episode**Appeals****Asbestos**

Notification
Management of
Owner-occupied, single-family residence
Procedures for projects
 Friable ACM
 Nonfriable ACM
 Training
 Work practices
Removal
Surveys
Waste material disposal

Authority**Best Available Control Technology (BACT)****Board****Boilers****Bubble****Burn Bans**

Application
Initiation
Exemptions
Use of a wood heater

Business Assistance Policy**Combustion and Incineration Sources****Compliance****Concealment****Control Apparatus****Definitions****DEO Phase 2 Woodstove****Dust**

Construction
Feedlot
Fugitive

Effective Date**Enforcement Actions****Emissions**

Excess
Fugitive
Mobile sources
Stationary sources
Point

Emissions Sampling

Ambient air monitoring
Compliance testing
Continuous monitoring and recording
Emission inventory

Emissions Standards

Catalytic cracking units
Combustion sources
Dry cleaners, perchloroethylene (PCE)
General

 Concealment and masking
 Detrimental emissions
 Material handling
 Objectionable odors
 Particulate matter (PM)
 Fuel type
 All other
 Wood derived

 General process sources
 Grain elevators
 Hazardous air pollutants
 Hog fuel boilers
 Incineration sources
 Orchard heating
 Sewage sludge incinerators
 Sulfuric acid plants

EPA Certified Woodstove**EPA Exempted Device****Fees**

Charges
Fees schedules
 Adoption
 Availability
Legal authority
Refunds

Fire Department**Garbage****General Provisions****General Process Unit****General Rule Permits****Hearings Board****Impaired Air Quality**

 First Stage (Yellow)
 Second Stage (Red)

Incinerator**Legal Land Descriptions****Lowest Achievable Emission Rate (LAER)****Maintenance****Major Modification****Maps**

 Woodsmoke Control Zone

PROPOSED

Yakima CO Nonattainment Area
Yakima PM₁₀ Nonattainment Area
Yakima Urban Area

Maximum Available Control Technology (MACT)**Monitoring, Recordkeeping, and Reporting****New Source****New Source Review (NSR)**

Applicability
Exemptions
Application
Approval

Nonattainment Area**Nonscheduled Renovation Operation****Notice of Construction (See New Source Review)****Odors**

Objectionable odors
Exemptions

Ozone (O₃)**Opacity**

Measurement
Standards

Catalytic cracking units
Orchard heaters
Wood heaters

Operation and Maintenance**Outdoor Burning**

Cessation of burning
Types of Fires

Ceremonial firesDelegationsTo the authorityFrom the authorityFire fighting training firesLand clearingRare & endangered plant regeneration firesRecreationalHome barbecuesLarge recreationalOther recreationalResidentialInsect & disease control firesAll otherSilviculturalStorm or flood debrisTumbleweedWeed abatementRequirementsPermittingProhibitionsAreasHours of burningMaterials**Particulate Matter (PM) Emissions (See Emissions, Particulate Matter)****Pellet Stove****Penalties**CivilDetermination**Permits**AdministrativeAnnual agricultural burningAir operatingGeneral rule permitsFlammable liquids training firesLarge recreational firesOther training firesStructural fire training outside of urban growth areasWildland fire training firesVending outdoor burning permitsOutdoor burningSynthetic minor sources**Prevention of Significant Deterioration (PSD)****Public Comment****Public Hearings****Public Participation****Public Notice Process****Public Policy****Reasonably Available Control Technology (RACT)****Records**ConfidentialIndexProtection ofPublicRequests for**Registration**ExemptionsLimited exemptionsReporting**Revocations****Solid Fuel Burning Device (See Wood Heaters)****Source**Major stationaryMinorMobileStationarySynthetic minor (SM)Temporary**State and Federal Regulations****State Implementation Plan (SIP)****State Environmental Policy Act (SEPA)****Toxic Air Pollutant (TAP)****Urban Growth Areas (UGA)****Variations****Volatile Organic Compound (VOC)****Wood Heater**ExemptionsProhibited fuel typesNuisance standardsSales, advertisement, and installationUse during burn bans**Woodsmoke Control Zone****Yakima Urban Area**

1. The section and page numbers will be added after local adoption and the creation of the final clean copy.

PROPOSED

APPENDIX D

Measurable Emissions Standards for Various Sources (New Appendix)

This appendix contains specific information about the measurable emissions standards cited in other sections. 1/

Sub. No. a	Standard		Test Method d	Compliance Assurance e
	Type b	Emission Limit c		
Visible Emissions				
3.01C1a	General Standard	≤ 20% opacity measured for 3 min. in a 1 hr. period.	EPA Method 9, 40 CFR Part 60, App. A. and Ecology Method. 9A, 5/	2/, 3/, 4/
3.01C1a1)	Hog fuel boilers	≤ 20% opacity except for 15 consecutive min. in any 8 hr. period.	EPA Method 9, 40 CFR Part 60, App. A.	2/, 3/
3.01F 3.01F1	Certain Sources Hog fuel boilers	See 3.01C1a1)		
3.01F2	Orchard heating	≤ 20% opacity except during the first 30 min. after ignition.	EPA Method 9, 40 CFR Part 60, App. A.	3/, 4/
3.01F4a	Existing catalytic cracking units	≤ 40% opacity for 3 min. in a 1 hr.	EPA Method 9, 40 CFR Part 60, App. A. and Ecology Method 9A, 5/	3/, 4/, 6/
3.01F4b	New catalytic cracking units	≤ 20% opacity for 3 min. in a 1 hr. period. 7/	EPA Method 9, 40 CFR Part 60, App. A. and Ecology Method. 9A, 5/	3/, 4/, 6/
3.04E1	Wood Heaters	≤ 20% opacity for 6 min. in a 1 hr. period. 8/	EPA Method 9, 40 CFR Part 60, App. A and Ecology Method 9B, 5/	3/
PM				
3.01D1 3.01D1a	Comb. & Incin. Sources Wood derived fuels for steam production	≤ 0.46 gram/dscm or ≤ 0.2 grain/dscf of exhaust gas. 9/, 10/	EPA Method 5, 40 CFR Part 60, App. A.	4/, 11/
3.01D1b	All other fuels	≤ 0.23 gram/dscm or ≤ 0.1 grain/dscf of exhaust gas. 9/, 10/	EPA Method 5, 40 CFR Part 60, App. A.	4/, 11/
3.01E	General Process Sources	≤ 0.23 gram/dscm or ≤ 0.1 grain/dscf of exhaust gas. 9/, 10/	EPA Method 5, 40 CFR Part 60, App. A.	4/, 11/
SO₂				
3.01C1f	General Standard	≤ 1,000 ppm. 9/, 10/, 12/	EPA Method 6, 40 CFR Part 60, App. A.	2/, 4/, 13/
VOCs				
3.01D2	Incineration Sources.	≤ 100 ppm.	EPA Method 18, 40 CFR Part 60, App. A.	2/, 4/, 13/
H₂SO₄				

PROPOSED

Sub. No. a	Standard		Test Method d	Compliance Assurance e
	Type b	Emission Limit c		
3.01F 3.01F5	Certain Sources H ₂ SO ₄ plants	≤0.15 lbs./ton of acid produced. 14/	EPA Method 8, 40 CFR Part 60, App. A.	4/, 13/
NO_x				
3.01	Any source	15/	EPA Method 7E, 40 CFR Part 60, App. A.	4/, 13/

Footnotes

- 1/ When an emission standard is not cited, the user needs to review 40 CFR Parts 60, 61, and 63 for an appropriate standard.
- 2/ When monitoring is required by conditions established in a NSR approval, order, or permit, the monitoring shall be at least once per three months or more frequently if ordered.
- 3/ Test performed by a currently certified opacity reader.
- 4/ Minor sources shall maintain the records of these tests for two years unless ordered otherwise by the APCO. Major sources shall maintain the records for five years.
- 5/ "Source Test Manual Procedure for Compliance Testing", State of Washington, Department of Ecology.
- 6/ Continuous emissions monitoring required as specified by 40 CFR Part 60 Subpart J, Sec. 60.105
- 7/ Unless a lower standard is established during a NSR.
- 8/ Except during the start of a new fire for a period ≤ 20 min. in any four hr. period.
- 9/ (5.07C) Stated Concentrations for combustion and incineration sources will be determined calculated after the volumes are corrected to seven percent (7%) O₂ (App. B) oxygen except when the authority decides that an alternate O₂ correction factor is more representative of normal operations.
- 10/ At standard conditions (App. A.)

- 11/ When monitoring is required by conditions established in a NSR approval, order, or permit, the monitoring shall be at least once per five years or more frequently if ordered.
 - 12/ Calculations based on the average of any period of 60 consecutive minutes.
 - 13/ Existing sources are subject to the compliance assurance requirements of 40 CFR Part 60.
 - 14/ Expressed as 100% H₂SO₄.
 - 15/ The emission limits for NO_x shall be determined in the BACT analysis.
- Notes
- 1. Alternative test procedures must either:
 - a. Have received advance written approval from the authority in accordance 40 CFR 51.212, or
 - b. Be acceptable procedures contained in "Source Test Manual Procedure for Compliance Testing", State of Washington, Department of Ecology.

PROPOSED

APPENDIX E
Cross Reference Between Restated Regulation I of 1995 and Regulation 1 (New Appendix)

SECTION & SUBSECTION NO.		COMMENTS
EXISTING	PROPOSED	
Article I		
Section 1.01	1.03	Reference to cooperation w/ YIN was removed.
Section 1.02	1.02	
Section 1.03	App. A	Common definitions used in more than one section. Specific definitions used in only one section is in that section. Legal land descriptions for Woodsmoke Control Zone, Yakima Urban Area, & Yakima PM ₁₀ Nonattainment Area are in App. K.
	App. K	
Article II		
Section 2.01	1.04	Rewritten extensively.
2.01		
Section 2.02		
2.02A	1.05C	
2.02B	2.01C	2.01C3&4 deleted. Authority will use RCW 70.94.200 if needed.
	2.01E	
2.02C	2.01C1→2	
2.02D	2.01D1→3	Split into subsections.

PROPOSED

<u>SECTION & SUBSECTION NO.</u>		<u>COMMENTS</u>
<u>EXISTING</u>	<u>PROPOSED</u>	
<u>2.02E</u>	<u>2.01A3</u>	<u>Powers broadened to include unless limited by the board.</u>
<u>Section 2.03</u>		
<u>2.03A</u>	<u>1.07B</u>	
<u>2.03B</u>	<u>1.07C</u>	
<u>2.03C</u>	<u>1.07D</u>	
<u>2.03D</u>	<u>1.07E</u>	
<u>Section 2.04</u>	<u>1.06C1&2</u>	<u>Rest of 1.06 is a new section.</u>
<u>Section 2.05</u>	<u>1.05D</u>	
<u>Article III</u>		
<u>Section 3.01</u>	<u>5.01</u>	
<u>Section 3.02</u>	<u>=====</u>	<u>Not included. Use state law and WAC.</u>
<u>Section 3.03</u>	<u>=====</u>	<u>Not included. Use state law and WAC.</u>
<u>Section 3.04</u>	<u>2.05C3</u>	
<u>Article IV</u>		
<u>Section 4.01</u>		
<u>4.01A</u>	<u>4.01B</u> <u>App. G, ¶A&B</u>	
<u>4.01B</u>	<u>4.01F5</u>	
<u>4.01C</u>	<u>=====</u>	<u>No longer applicable technology.</u>
<u>4.01D</u>	<u>4.01C</u>	
<u>4.01E</u>	<u>4.01F1&2</u>	
<u>4.01F</u>	<u>4.01F1d</u>	
<u>4.01G</u>	<u>4.01F4</u>	
<u>4.01H</u>	<u>4.01G</u>	<u>Fee schedules not included in the regulation.</u>
<u>Section 4.02</u>		
<u>4.02A</u>	<u>4.02B</u>	
<u>4.02B</u>	<u>4.02E5a</u>	
<u>4.02C</u>	<u>4.02E5b</u>	
<u>4.02D</u>	<u>4.02E3</u> <u>4.02F2</u> <u>4.02E4</u> <u>4.02F6</u> <u>4.02D1</u> <u>4.02D2</u> <u>4.02D3</u>	
	<u>4.02F3</u> <u>4.02F1a</u> <u>4.02F1b</u>	
<u>4.02E</u>	<u>4.02F1c→e</u>	
<u>4.02F</u>	<u>4.02F8&9</u>	
<u>4.02G</u>	<u>4.02D</u>	
<u>4.02H</u> <u>4.02H1a&c</u> <u>4.02H1b</u> <u>4.02H2</u>	<u>2.04</u> <u>2.04D</u> <u>2.04D & 4.02E2</u>	<u>Now in a general regulation for all authority activities.</u> <u>Deleted. No longer correct.</u>

<u>SECTION & SUBSECTION NO.</u>		<u>COMMENTS</u>
<u>EXISTING</u>	<u>PROPOSED</u>	
4.02I	4.02E & App. F, ¶ C	
Section 4.03	4.01D, 4.01E, & 4.02C	
4.03A		
4.03B		
4.03C		
4.03D		
4.03E		
4.03F		
4.03G		
4.03H		
4.03I		
4.03J		
4.03K		
4.03L		
Article V		
Section 5.01	3.03C2c, tab. 3.03-1 & 2	
5.01A	3.03I	
5.01A1	tab. 3.03-2	<u>Requirement dropped.</u>
5.01A2	=====	
5.01A3	tab. 3.03-2	
5.01B	3.03B	<u>This section is not applicable to silvicultural burning.</u>
5.01C	tab. 3.03-2	
5.01D	1.07A	
5.01E	5.01K	
Section 5.02A	3.03B	<u>Similar language.</u>
5.02A1	3.03C1, 3.03D1, & 3.03F1	
5.02A1a	3.03D1a & 3.03F2b	
5.02A1b & 5.02A1c	3.03C2f(1) & 3.05C2a	
5.02B	=====	<u>Subsection deleted.</u>
Section 5.03		
5.03A	3.03A	
5.03B	3.03C1c	<u>Added the city of Sunnyside to recognize the existing city ordinance.</u>
5.03C	3.03C1b(2)	<u>Not needed. Covered by 3.03C1c</u>
5.03C1	=====	
5.03C2	3.03C2b)	

PROPOSED

PROPOSED

<u>SECTION & SUBSECTION NO.</u>		<u>COMMENTS</u>
<u>EXISTING</u>	<u>PROPOSED</u>	
<u>5.03D</u>	<u>3.03C2c(1) & tab. 3.03-2</u>	
<u>5.03D1</u>	<u>tab. 3.03-1&2</u>	
<u>5.03D2</u>	<u>tab. 3.03-1&2</u>	<u>Reference to flares, torches, gas burners, incense burners, & insect pots dropped.</u>
<u>5.03D3</u>	<u>tab. 3.03-1&2</u>	
<u>5.03Da→f</u>	<u>3.03E1, 2, & 3 & GRP No. 3.03 - 1</u>	
<u>Section 5.04</u>		
<u>5.04A</u>	<u>3.03C,D, E, & F</u>	
<u>5.04A1</u>	<u>tab. 3.03-1</u>	
<u>5.04A1a</u>	<u>N/A</u>	<u>Offering farmers the choice of a annual permit or specific burning permits.</u>
<u>5.04A1b</u>	<u>tab. 3.03-1</u>	<u>Deleted requirement for certification by an agricultural extension agent.</u>
<u>5.04A2</u>	<u>tab. 3.03-1&2 & GRP No. 1 → 4</u>	
<u>5.04B</u>	<u>3.03C2d</u>	
<u>5.04C</u>	<u>3.03C2d</u>	
<u>5.04D</u>	<u>3.03C2b</u>	
<u>Section 5.05</u>	<u>3.03C1 & 3.03D2a(1)</u>	<u>Exemptions are in Table 3.03-1.</u>
<u>5.05 Last sentence</u>	<u>3.03C2g</u>	<u>Adds "no smoke" to the definition for an extinguished fire.</u>
<u>5.05A</u>	<u>3.03C2f(1)</u>	
<u>5.05A1</u>	<u>3.05C2a</u>	
<u>5.05B</u>	<u>3.03Cf(2)→(4)</u>	
<u>5.05B</u>	<u>3.03C2i</u>	
<u>Section 5.06</u>		
	<u>3.01B</u>	
	<u>3.01C2a</u>	
	<u>3.01C2b</u>	
<u>5.06A</u>	<u>3.01C1a</u>	
<u>5.06A1</u>	<u>3.01C1a(1)</u>	
<u>5.06A2</u>	<u>3.01C1a(2)</u>	
<u>5.06A3</u>	<u>3.01C1a(3) & 3.04D1a</u>	
<u>5.06B</u>	<u>3.01C1b(1)</u>	
<u>5.06C</u>	<u>3.01C2c</u>	
<u>5.06D</u>	<u>3.01C1c</u>	
<u>5.06E</u>	<u>3.01C1d</u>	
<u>5.06F</u>	<u>3.01C1e</u>	
<u>5.06F1</u>	<u>3.01C1e(1)</u>	
<u>5.06F2</u>	<u>3.01C1e(2)</u>	
<u>5.06G</u>	<u>3.01C1f</u>	
<u>5.06H</u>	<u>3.01C2d</u>	
<u>5.06H1</u>	<u>3.01C2d(1)</u>	
<u>5.06H2</u>	<u>3.01C2d(2)</u>	

PROPOSED

SECTION & SUBSECTION NO.		COMMENTS
EXISTING	PROPOSED	
5.06I	3.01C1g	
5.06J	3.01C2e	
Section 5.07	3.01D	
5.07A	3.01C1a	
5.07B	App. D, VOC & Footnote 8	
5.07C	App. D, Footnote 5	
5.07D	3.01D2c	
5.07E	3.01E2	
Section 5.08	3.01E2	
Section 5.09	3.01F	
5.09A 5.09A1	4.02D or E&F N/A	<u>Will be a requirement of NSR or temporary permitting under section 4.02.</u>
5.09A2	4.02D4 or 4.02F1	
5.09B 5.09B1 5.09B2 5.09B3	3.01F1 3.01C1a(1) 3.01C2b & 3.00F1 3.01F1a→c	
5.09C 5.09C1 5.09C2	3.01F2a 3.01F2a App. D	
5.09D 5.09D1 5.09D2	3.01F3 N/A 3.01F3	<u>No longer needed.</u>
5.09E 5.09E1 5.09E2 5.09E3 5.09E4	3.07 3.07→K 3.07 3.07F App. F, ¶ E	<u>This is a total rewrite patterned after the SCAPCA Sect. 9.01 → 9.08</u> <u>Fee schedule corrected to remove errors in the old reg.</u>
5.09F	=====	<u>Deleted. Obsolete technology.</u>
5.09G 5.09G1 5.09G2	3.01F4 App. D 3.01F4b	
5.09H1 5.09H2	3.01C 3.01C2b & App. D	
Section 5.10	=====	<u>Deleted. This section has not been used and there is no foreseeable use for it.</u>
Section 5.11	3.11	<u>Some text in 2.01.</u>
5.11A	3.11E1a&b	
5.11B	2.01D1	<u>Reference to 2.01D in subsection 3.11E2b2)</u>
5.11C	3.11E2	<u>Deleted the requirement for a owner/operator to provide a sampling platform or ports.</u>
5.11D	3.11D2	<u>Rewritten to conform to WAC 173-400-107.</u>

PROPOSED

<u>SECTION & SUBSECTION NO.</u>		<u>COMMENTS</u>
<u>EXISTING</u>	<u>PROPOSED</u>	
<u>5.11E</u> <u>5.11E1→4</u> <u>5.11E5</u>	<u>3.11F</u> <u>3.11F2 & Table 3.11-1</u> <u>3.11F5</u>	
<u>5.11F</u>	<u>3.11F3b</u>	<u>18 month time requirement for installation removed.</u>
<u>5.11G</u>	<u>3.11F6</u>	
<u>5.11H</u>	<u>3.11F4</u>	
<u>5.11I</u>	<u>3.11D4</u>	
<u>5.11J</u>	<u>3.11E3</u>	
<u>5.11K</u>	<u>3.11D3</u>	
<u>Section 5.12</u>	<u>3.01</u>	
<u>5.12A</u>	<u>3.01C1b(2)</u>	
<u>5.12B</u>	<u>3.01C1b(3)</u>	
<u>5.12C</u>	<u>1.07H</u>	
<u>5.12D</u>	<u>3.08A4f</u>	
<u>Article VI</u>		
<u>Section 6.01</u>	<u>4.04A</u>	
<u>Section 6.02</u>	<u>4.04J & App. F, ¶ F</u>	
<u>Article VII</u>		
<u>Section 7.01</u>	<u>3.00E</u>	
<u>7.01A</u> <u>7.01A1</u> <u>7.01A2</u> <u>7.01A3</u> <u>7.01A4</u>	<u>3.00E2</u> <u>3.00E3e(1)</u> <u>3.00E3e(2)</u> <u>3.00E6</u> <u>3.00E7</u>	
<u>7.01B</u>	<u>3.00E3b</u>	
<u>7.01C</u> <u>7.01C1</u> <u>7.01C2</u> <u>7.01C3</u>	<u>3.00E4</u> <u>3.00E4a</u> <u>3.00E4b</u> <u>=====</u>	<u>Duplicated by other subsections.</u>
<u>7.01D</u>	<u>3.00E8</u>	
<u>7.01E</u>	<u>3.00E9</u>	
<u>7.01F</u>	<u>3.00E10</u>	
<u>7.01G</u>	<u>3.00E3c</u>	
<u>Article VIII</u>		
<u>Section 8.01</u>	<u>5.02</u>	
<u>8.01A</u>	<u>=====</u>	<u>Deleted. Refer to Chap. 70.94 RCW.</u>
<u>8.01B</u>	<u>=====</u>	<u>Deleted. Refer to Chap. 70.94 RCW.</u>
<u>8.01C</u>	<u>=====</u>	<u>Deleted. Refer to Chap. 70.94 RCW.</u>
<u>8.01D</u>	<u>=====</u>	<u>Deleted. Refer to Chap. 70.94 RCW.</u>
<u>Section 8.02</u>	<u>5.02</u>	
<u>8.02A</u>	<u>5.02D1&2</u>	
<u>8.02B</u>	<u>5.02E</u>	

SECTION & SUBSECTION NO.		COMMENTS
EXISTING	PROPOSED	
<u>8.02C</u>	<u>5.02F</u>	
<u>8.02D</u>	<u>5.02G</u>	
<u>8.02E</u>	<u>5.02H</u>	
<u>8.02F</u>	<u>5.02I</u>	Delete table on Pg. 8-3.
<u>8.02G</u>	<u>5.02I</u>	
Section 8.03	<u>5.01F</u>	
Section 8.04	<u>5.01E</u>	
Section 8.05	<u>1.07G</u>	
Article IX		
Section 9.01	<u>3.04A</u>	
Section 9.02	<u>3.04E1a</u>	Reference to 10% opacity standard for education dropped.
Section 9.03	<u>3.04E2</u>	
Section 9.04		
<u>9.04A</u>	<u>3.04D1</u>	Definitions of certified stoves removed because this is a UBC requirement. Definitions are still in appendix A.
<u>9.04B</u>	<u>3.04D1</u>	Definitions of certified stoves removed because this is a UBC requirement. Definitions are still in appendix A.
<u>9.04C</u>	<u>3.04D1</u>	Definitions of certified stoves removed because this is a UBC requirement. Definitions are still in appendix A.
<u>9.04D</u>	<u>3.04D2</u>	
<u>9.04E</u>	<u>3.04C</u>	
Section 9.05	<u>3.05</u>	
<u>9.05A</u>	<u>3.05B & 3.05D2</u>	
<u>9.05A1</u>	<u>3.05C2b & tab. 3.05-1</u>	
<u>9.05A2</u>	<u>tab. 3.05-1 & 3.05C1a(1)</u>	
<u>9.05A3</u>	<u>tab. 3.05-1 & 3.05C1a(2)</u>	
Article X		
Section 10.01	<u>3.06</u>	
Article XI		
	<u>1.08</u>	
Article XII		
	<u>2.03</u>	
Section 2.01	<u>2.03A</u>	
Section 12.02	<u>2.03B</u>	
Article XIII		
Section 13.01	_____	Not included in the regulation. Fees will be adopted by board resolution.
Section 13.02	_____	Not included in the regulation. Fees will be adopted by board resolution.
Section 13.03	_____	Not included in the regulation. Fees will be adopted by board resolution.
Section 13.04	_____	Not included in the regulation. Fees will be adopted by board resolution.
Section 13.05		
<u>13.05A</u>	_____	Not included in the regulation. Fees will be adopted by board resolution.
<u>13.05B</u>	_____	Not included in the regulation. Fees will be adopted by board resolution.
<u>13.05C</u>	_____	Not included in the regulation. Fees will be adopted by board resolution.

PROPOSED

SECTION & SUBSECTION NO.		COMMENTS
<u>EXISTING</u>	<u>PROPOSED</u>	
13.05D	2.02D3	
Signature Page		Page following the table of contents.

**APPENDIX F
Fee Schedules**

This appendix contains the fee schedule from Restated Regulation 1-1995. For Regulation 1-1999 the fee schedules shall be adopted by board resolutions as needed and not be

included in the regulation. Therefore, this appendix will not be used after the regulation is adopted.

A. COPYING DOCUMENTS

B. REGISTRATION FEE SCHEDULE (13.01)

Sources required to register according to the requirements of Article IV of this regulation shall pay annual registration fees according to the following schedule:

Criteria	Class	Fee
Potential Controlled Emissions > 100 tons per year	A-1	\$550
Potential Uncontrolled Emissions > 100 tons per year	A-2	\$550
Potential Uncontrolled Emissions < 100 tons per year	B	\$75
Potential Controlled Toxic Emissions > 10/25* tons per year	A-1 toxic	\$550
Potential Uncontrolled Toxic Emissions > 10/25* tons per year	A-2 toxic	\$550
Potential Uncontrolled Toxic Emissions < 10/25* tons per year	B toxic	\$75

*10 tons of a single toxic pollutant or a combined total of 25 tons of two or more toxic pollutants.

C. NOTICE OF CONSTRUCTION NEW SOURCE REVIEW FEE SCHEDULE (13.02)

Sources required to file a "Notice of Construction, Installation or Establishment of New Air Contaminant Source" shall pay a fee according to the following schedule:

Filing Fee (for all sources):	\$50
Air Handling or Air Pollution Control Equipment (ACFM)	
0 < 200	\$25
200 < 5,000	\$100
5,000 < 20,000	\$200
20,000 < 50,000	\$300
50,000 < 100,000	\$400
100,000 < 250,000	\$500
250,000 < 500,000	\$650
> 500,000	\$800
Fuel Burning Equipment Installation (MMBTU/H):	
< 5	\$25
5 < 10	\$100
10 < 20	\$150
20 < 50	\$250
50 < 100	\$350
100 < 250	\$500
250 < 500	\$1,000
> 500	\$1,500
Fuel Burning Equipment Fuel Change (MMBTU/H):	
< 5	\$15
5 < 10	\$40
10 < 20	\$60
20 < 50	\$80

50 < 100	\$100
100 < 250	\$150
250 < 500	\$200
> 500	\$250
Refuse Burning Equipment (tons per day Rated Capacity):	
< 5 (w/o HCl controls)	\$100
5 < 12 (w/o HCl controls)	\$200
< 12 (w/HCl controls)	\$500
12 < 250 (w/HCl controls)	\$2,000
> 250 (w/HCl controls)	\$4,000
Other Incinerators (pounds/hour):	
< 100	\$0
100 < 200	\$300
200 < 500	\$500
500 < 1,000	\$750
> 1,000	\$1,500
Volatile Material Storage Tanks (gals):	
< 4,000	\$0
4,000 < 20,000	\$0
20,000 < 40,000	\$65
40,000 < 100,000	\$200
100,000 < 500,000	\$750
500,000 < 1,000,000	\$1,200
> 1,000,000	\$1,200
Significant Emissions Surcharge:	\$250
Gasoline Stations:	
Stage I	\$50
Stage II	\$50
Temporary Source:	\$75
Odor Source:	\$200
SEPA:	\$50

PROPOSED

D. OUTDOOR AND AGRICULTURAL BURNING AND FIRE FIGHTING TRAINING PERMITS FEES (13.03)

The Authority shall assess fees for each outdoor burning permit it issues under the requirements of Article V of this regulation in accordance with the following fee schedule:

PROPOSED

PERMIT TYPE OR ACTIVITY	QUANTITY OF MATERIAL	FEE	EXPIRATION DATE
Residential	Any Amount	\$5	31 Dec of Current Year
Agricultural	Per WAC 173-430		
Fire Dept. Training	Any Amount	\$100	30 Days After Issuance
All Others ¹	10 Acres Or Less	\$25	30 Days After Issuance
	More Than 10 Acres	\$2.50 Per Acre	30 Days After Issuance
	10 Cubic Yards Or Less	\$50	30 Days After Issuance
	More Than 10 Cubic Yards	\$8.50 Per Cubic Yard	30 Days After Issuance
Re-inspection ²	-	\$25	-
Application ³	-	\$25	-

1. Fees will be assessed on a volume basis when the material to be burned is consolidated into piles. Fees will be assessed on an acreage basis when the material is to be burned in place (e.g. weeds burned along ditch banks or fence lines).
2. If required.
3. Required for all non-residential outdoor burning permits.

E. ASBESTOS NOTIFICATION FEE SCHEDULE (13.04)

Any person applying for a Notification of Demolition or Renovation from the Authority or private homeowners, prior to removing asbestos materials from their homes, may be assessed a fee by the Authority in accordance with the following fee schedule:

Amount to be removed:		Fee
lineal feet	square feet	
>50,000	>10,000	\$500
<=50,000	<=10,000	\$250
<=5,000	<=1,000	\$100
<=60	<=160	\$25
<=11	<=10	\$25
Residential		\$25
Surcharges/Other Fees:		
Emergency		\$50
Demolition		\$0
Amendment		\$25
Annual Notices		\$100
Encapsulation		\$0

B. Budget Development:

The Authority shall prepare an annual operating permit program budget. The budget shall include both the direct and indirect costs of the permit administration activities identified in the workload analysis, and shall take into account projected fund balances at the start of each fiscal year.

C. Fee Allocation:

Fees sufficient to cover the costs of the Authority's air operating permit program shall be assessed such that each source shall pay an amount equal to that source's portion of the total annual emissions (determined from the previous year's emission inventory) of the fee applicable pollutants from all the permit program source's within the Authority's jurisdiction. The fee applicable pollutants shall be as follows:

- 1) Total Suspended Particulate (TSP)
- 2) Sulfur Oxides (SOx)
- 3) Nitrogen Oxides (NOx)
- 4) Volatile Organic Compounds (VOC)
- 5) Hazardous Air Pollutants (HAPs)

The air operating permit fee for an individual source shall be calculated according to the following formula:

$$F = B \times SE/TE,$$

where:

- F = Source's annual air operating permit fee;
- B = The Authority's budget for the air operating permit program;
- SE = The sum of the annual emissions of fee applicable pollutants in tons per year from the source;
- TE = The sum of annual emissions of fee applicable pollutants in tons per year from all permit program sources.

D. Public Notice.

The workload analysis budget and fee allocations shall be made available upon request. Any proposed revisions to the annual fee schedule shall be presented to the Board for adoption after public notice has been given.

G. REIMBURSABLE COSTS

F. AIR OPERATING PERMIT FEE DETERMINATION MAJOR SOURCES (13.05)

A. Workload Analysis:

The Authority shall conduct an annual workload analysis of its air operating permit program to determine the adequacy and fairness of the air operating permit fees. The workload analysis shall identify all permit administration activities that the Authority will perform during that year. Permit Administration activities included all activities listed in RCW 70.04.162 (2)(a). The workload analysis shall be based on the Authority's historical record of time and resource expenditures attributable to the air operating permit program.

H. REVIEW OF SPECIFIC DUST CONTROL PLANS.**I. MOBILE SOURCE EMISSIONS.****J. SEPA REVIEW.****K. ERC (App. B) BANKING.****APPENDIX G****Registration Program Information**

A. The owner or operator of each source within the following source categories, that does not hold an operating permit, shall register the source with the Authority: (4.01A) This appendix provides specific information on applicability and exemptions for the registration program in section 4.01.

1. Agricultural drying and dehydrating operations;
2. Asphalt plants;
3. Beverage can surface coating operations;
4. Bulk gasoline terminals;
5. Cattle feed lots; for the purposes of registration a cattle feed lot is a place with facilities for 1,000 or more head of cattle which are kept closely confined for commercial purposes and substantially all feed used is delivered to them;
6. Chemical plants;
7. Ferrous foundries;
8. Fertilizer plants;
9. Flexible vinyl and urethane coating and printing operations;
10. Grain handling, seed processing, pea and lentil processing;
11. Metallic mineral processing plants;
12. Mineralogical processing plants;
13. Nonferrous foundries;
14. Other metallurgical processing plants;
15. Petroleum refineries;
16. Power boilers;
17. Pressure sensitive tape and label surface coating operations;
18. Rendering plants;
19. Scrap metal operations;
20. Synthetic organic chemical manufacturing industries;
21. Sulfuric acid plants;
22. Synthetic fiber production facilities;
23. Veneer dryers;
24. Wood waste incinerators including wigwam burners;
25. Other incinerators designed for a capacity of 100 lbs per hour or more;
26. Stationary internal combustion engines rated at 500 h.p. or more;
27. Sawmills, including processing for lumber, plywood, shake, shingle, pulp wood, insulating board, or any combination thereof.
28. Any category of stationary sources to which a New Source Performance Standard (NSPS) applies. The categories as identified in the federal regulations 40 CFR Part 60 (January 1, 1993) are as follows:

Subpart D Fossil fuel fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts

Subpart Da Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts Subpart Db Industrial commercial institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts

Subpart De Small industrial commercial institutional steam generating units

Subpart E Incinerators

Subpart Ea Municipal waste combustors

Subpart F Portland cement plants

Subpart G Nitric acid plants

Subpart H Sulfuric acid plants

Subpart I Asphalt concrete plants

Subpart J Petroleum refineries which produce less than 25,000 barrels per day of refined products

Subpart K Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons

Subpart Ka Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons

Subpart Kb Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984

Subpart L Secondary lead smelters

Subpart M Brass and bronze ingot production plants

Subpart N Iron and steel plants

Subpart O Sewage treatment plants

Subpart P Primary copper smelters

Subpart Q Primary zinc smelters

Subpart R Primary lead smelters

Subpart S Primary aluminum reduction plants

Subpart T Phosphate fertilizer industry: Wet process phosphoric acid plants

Subpart U Phosphate fertilizer industry: Superphosphoric acid plants

Subpart V Phosphate fertilizer industry: Diammonium phosphate plants

Subpart W Phosphate fertilizer industry: Triple superphosphate plants

Subpart X Phosphate fertilizer industry: Granular triple superphosphate storage facilities

Subpart Y Coal preparation plants

Subpart Z Ferroalloy production facilities

Subpart AA Steel plants: Electric arc furnaces

Subpart AAa Steel plants: Electric arc furnaces and argon oxygen decarburization vessels

Subpart BB Kraft pulp mills

Subpart CC Glass manufacturing plants

Subpart DD Grain elevators

Subpart EE Industrial surface coating: Metal furniture

Subpart GG Stationary gas turbines

Subpart HH Lime manufacturing plants

Subpart KK Lead acid battery plants

Subpart LL Metallic mineral processing plants

Subpart MM Automobile and light duty truck surface coating operations

Subpart NN Phosphate rock plants
 Subpart PP Ammonium sulfate manufacture
 Subpart QQ Publication rotogravure printing
 Subpart RR Pressure sensitive tape and label surface coating operations
 Subpart SS Industrial surface coating: Large appliances
 Subpart TT Industrial surface coating: Metal coils
 Subpart UU Asphalt processing and asphalt roofing manufacture
 Subpart VV SOCMI equipment leaks (VOC)
 Subpart WW Beverage can surface coating operations
 Subpart XX Bulk gasoline terminals
 Subpart BBB Rubber tire manufacturing industry
 Subpart DDD VOC emissions from the polymer manufacturing industry
 Subpart FFF Flexible vinyl and urethane coating and printing
 Subpart GGG Petroleum refineries—compressors and fugitive emission sources
 Subpart HHH Synthetic fiber production facilities
 Subpart III VOC emissions from SOCMI air oxidation unit processes
 Subpart JJJ Petroleum dry cleaners
 Subpart KKK Equipment leaks of VOC from onshore natural gas processing plants
 Subpart LLL Onshore natural gas processing; SO₂ emissions
 Subpart NNN VOC emissions from SOCMI distillation operations
 Subpart PPP Wool fiberglass insulation manufacturing plants
 Subpart QQQ VOC emissions from petroleum refinery wastewater emissions
 Subpart SSS Magnetic tape coating facilities
 Subpart TTT Industrial surface coating: Surface coating of plastic parts for business machines
 Subpart VVV Polymeric coating of supporting substrates facilities:

Note: For fossil fuel fired steam generators referenced by Subpart D and Da above, units greater than 250 megawatts are governed by the energy facility site.

29. Any source which emits a contaminant subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS);

30. Any major stationary source as defined below;

"Major source" means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control) belonging to a single major industrial grouping and that are described in (a), (b), or (c) of this subsection. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two digit code) as described in the *Standard Industrial Classification Manual*, 1987.

(a) A major source under section 112 of the FCAA, which is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the FCAA, twenty five tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units; whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(b) A major stationary source of air pollutants, as defined in section 302 of the FCAA, that directly emits or has the potential to emit, one hundred tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

(c) A major stationary source as defined in part D of title I of the FCAA, including:

(i) For ozone nonattainment areas, sources with the potential to emit one hundred tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," fifty tpy or more in areas classified as "serious," twenty five tpy or more in areas classified as "severe," and ten tpy or more in areas classified as "extreme"; except that the references in this paragraph to one hundred, fifty, twenty five, and ten tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182 (f)(1) or (2) of the FCAA, that requirements under section 182(f) of the FCAA do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the FCAA, sources with the potential to emit fifty tpy or more of volatile organic compounds;

(iii) For carbon monoxide nonattainment areas (A) that are classified as "serious," and (B) in which stationary sources contribute significantly to carbon monoxide levels; sources with the potential to emit fifty tpy or more of carbon monoxide; and

(iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit seventy tpy or more of PM-10.

31. Any of the following categories of sources which are listed in WAC 173-460-030(1):

Standard industrial classifications:

Major group 10-Metal mining.

Major group 12-Bituminous coal and lignite mining.

Major group 13-Oil and gas extraction.

Manufacturing industries major groups 20-39.

Major group 49-Electric, gas, and sanitary services except 4971 irrigation systems.

Dry cleaning plants, 7216.

General medical surgical hospitals, 8062.

Specialty hospitals, 8069.

National Security, 9711.

~~Any Source category listed in WAC 173-490-030(1) except WAC 173-490-030 (1)(e) Gasoline dispensing facilities:~~

~~WAC 173-490-030(1) categories:~~

- ~~a. Petroleum refineries;~~
- ~~b. Petroleum liquid storage tanks;~~
- ~~c. Gasoline loading terminals;~~
- ~~d. Bulk gasoline plants;~~
- ~~f. Surface coaters;~~
- ~~g. Open top vapor degreasers;~~
- ~~h. Conveyerized degreasers;~~
- ~~i. Gasoline transport tanks;~~
- ~~j. Vapor collection systems;~~
- ~~k. Perchloroethylene dry cleaning systems;~~
- ~~l. Graphic arts systems;~~
- ~~m. Surface coaters of miscellaneous metal parts and products;~~
- ~~n. Synthesized pharmaceutical manufacturing facilities;~~
- ~~o. Flatwood panel manufacturers and surface finishing facilities;~~

~~Any of the following sources:~~

~~Landfills;~~

~~Sites subject to chapter 173-340 WAC Model Toxics Control Act - Cleanup regulation:~~

~~A. SOURCE CLASSIFICATION LIST, (WAC 173-400-100(1))~~

~~1. Agricultural chemical facilities engaging in the manufacturing of liquid or dry fertilizers or pesticides;~~

~~2. Agricultural drying and dehydrating operations;~~

~~3. Any category of stationary sources to which a federal standard of performance (NSPS) under 40 CFR Part 60 (App. B) as of the effective date in section 1.08, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters) applies;~~

~~4. Any source category subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS) under 40 CFR Part 61 as of the effective date in section 1.08, other than Subpart M (National Emission Standard for Asbestos) or a Maximum Achievable Control Technology (MACT) standard in 40 CFR Part 63 as of the effective date in section 1.08 established under Section 112 of the FCAA (App. B);~~

~~5. Any source, stationary source or emission unit with a significant emission as defined by WAC 173-400-030(67);~~

~~6. Asphalt and asphalt products production facilities;~~

~~7. Brick and clay manufacturing plants, including tiles and ceramics;~~

~~8. Casting facilities and foundries, ferrous and nonferrous;~~

~~9. Cattle feedlots with facilities which operate between June 1st and October 1st, have an inventory of 1,000 or more cattle, and vegetation forage growth is not sustained over the majority of the lot during the normal growing season;~~

~~10. Chemical manufacturing plants;~~

~~11. Composting operations, including commercial, industrial and municipal, but exempting residential composting activities;~~

~~12. Concrete product manufacturers and ready mix and premix concrete plants;~~

13. Crematoria or animal carcass incinerators;

14. Dry cleaning plants;

15. Materials handling and transfer facilities that generate fine particulate, which may include pneumatic conveying, cyclones, baghouses, and industrial housekeeping vacuuming systems that exhaust to the atmosphere;

16. Flexible vinyl and urethane coating and printing operations;

17. Grain, seed, animal feed, legume, and flour processing operations, and handling facilities;

18. Hay cubers and pelletizers;

19. Hazardous waste treatment and disposal facilities;

20. Ink manufacturers;

21. Insulation fiber manufacturers;

22. Landfills, active and inactive, including covers, gas collection systems or flares;

23. Metal plating and anodizing operations;

24. Metallic and nonmetallic mineral processing plants, including rock crushing plants;

25. Mills such as lumber, plywood, shake, shingle, wood chip, veneer operations, dry kilns, pulpwood insulating board, or any combination thereof;

26. Mineralogical processing plants;

27. Other metallurgical processing plants;

28. Paper manufacturers;

29. Petroleum refineries;

30. Plastics and fiberglass product fabrication facilities;

31. Rendering plants;

32. Soil and groundwater remediation projects;

33. Surface coating manufacturers;

34. Surface coating operations including: Automotive, metal, cans, pressure sensitive tape, labels, coils, wood, plastic, rubber, glass, paper and other substrates;

35. Synthetic fiber production facilities;

36. Synthetic organic chemical manufacturing industries;

37. Tire recapping facilities;

38. Wastewater treatment plants;

39. Any source that has elected to opt-out of the operating permit program by limiting its potential-to-emit (synthetic minor) or is required to report periodically to demonstrate nonapplicability to EPA requirements under Sections 111 or 112 of FCAA.

B. Equipment Classification List, (WAC 173-400-100(2))

1. Boilers, all solid and liquid fuel burning boilers with the exception of those used for residential heating;

2. Boilers, all gas fired boilers above 10 million Btu (App. B) per hour input;

3. Chemical concentration evaporators;

4. Degreasers of the cold or vapor type in which more than 5% of the solvent is comprised of halogens or such aromatic hydrocarbons as benzene, ethylbenzene, toluene or xylene;

5. Ethylene oxide (ETO) sterilizers;

6. Flares utilized to combust any gaseous material;

7. Fuel burning equipment with a heat input of more than 1,000,000 Btu per hour; except heating, air conditioning systems, or ventilating systems not designed to remove contaminants generated by or released from equipment;

8. Incinerators designed for a capacity of 100 pounds per hour or more;

9. Ovens, burn-out and heat-treat;

10. Stationary internal combustion engines and turbines rated at 500 horsepower or more;

11. Storage tanks for organic liquids associated with commercial or industrial facilities with capacities equal to or greater than 40,000 gallons;

12. Vapor collection systems within commercial or industrial facilities;

13. Waste oil burners above 0.5 mm Btu heat output;

14. Woodwaste incinerators.

APPENDIX H Legal Land Descriptions

This appendix provides the legal land descriptions for geographic areas cited in the regulation (*App. A*).

A. WOODSMOKE CONTROL ZONE - An area located in Yakima County, Washington, as shown in Attachment 1, which is legally described as follows:

Beginning at a point on a line which is herein called the Western boundary, and which line is a straight line drawn through the following points:

Point A - Where the South right-of-way line of Highway 410 intersects with the North right-of-way line of Highway 12.

Point B - Where the South right-of-way line of the North Fork of Ahtanum Road intersects with the North right-of-way line of the South Fork of Ahtanum Road.

Which line further extends in a Southwesterly direction to a point where it intersects with the South boundary line of Sections 19, 20, 21, 22, 23, 24 or Township 12 N., Range 16 E., W.M. as such boundary line is extended both Easterly and Westerly, and thence Easterly along said South boundary line of said Sections as extended to the Southeast corner of Section 19, Township 12 N., Range 18 E., W.M.; thence North along the East boundary line of said section to the Northeast corner thereof; thence East along the North boundary line of Sections 20, 21, 22, 23, 24, of Township 12 N., Range 18 E., W.M. as extended Easterly to the Northeast corner of Section 21, Township 12 N., Range 20 E., W.M.; thence North along the East boundary line of Sections 16, 9 and 4 of Township 12 N., Range 20 E., W.M.: thence East to the Southeast corner of Section 34, Township 13 N, Range 20 E., W.M.; thence North along the Easterly boundary line of said Section to the intersection with the U.S. Military Reservation, Yakima Firing Training Center; thence Northerly and Westerly along the boundary line of the U.S. Military Reservation to the Southern boundary of Kittitas County; thence West to the Southeast corner of Section 36, Township 15 N., Range 18 E., W.M.; thence North to the Northeast corner of Section 24, Township 15 N., Range 18 E., W.M.; thence West to the Southeast corner of Section 18, Township 15 N, Range 18 E. W.M. thence West to the intersection of the West boundary

line as herein described; thence Southwesterly along said West boundary line to the point of beginning.

B. YAKIMA URBAN AREA - An area located in Yakima County, Washington, as shown in Attachment 2, which is legally described (Yakima City Code-Title 15A, Ord.# 10-1985) as follows:

Beginning at the southwest corner of Government Lot 5, Section 17, Township 12 N., Range 19 E., W.M.; thence north along the west line of said Section 17 to the southeast corner of Section 7. Township 12 N., Range 19 E., W.M., thence west along the south line of said Section 7 to the southwest corner of the southeast quarter of said Section 7; thence north along the west line of the east half of said Section 7 to Ahtanum Creek, thence following Ahtanum Creek in a generally westerly direction to the west line of the southwest quarter of the south-east quarter of Section 2, Township 12 N., Range 18 E., W.M.; thence north along said west line to the northwest corner of the southwest quarter of the southeast quarter of said Section 2; thence west along the east-west centerline of the south half of said Section 2 to the west line of said Section 2; thence continuing west along the east-west centerline of the south half of Section 3, Township 12 N., Range 18 E., W.M. to South 34th Avenue; thence north along South 34th Avenue to Ahtanum Road - thence west along Ahtanum Road to 38th Avenue; thence north along 38th Avenue to the north line of Section 3. Township 12 N., Range 18 E., W.M.; thence west along said north line to the northeast corner of Section 4, Township 12 N, Range 18 E., W.M.; thence continuing west along the north line of said Section 4 to the southeast corner of Section 33, Township 13 N., Range 18 E., W.M.; thence continuing west along the south line of said Section 33 to 64th Avenue; thence north along 64th Avenue to the east-west centerline of Sections 32 and 33, Township 13 N, Range 18 E., W.M.; thence west along said east-west centerline to the north-south centerline of the west half of said Section 32; thence north along said north-south centerline to Zier Road; thence west along Zier Road to South 80th Avenue; thence north along South 80th Avenue to Wide Hollow Road; thence west along Wide Hollow Road to the north-south centerline of the east half of Section 30, Township 13 North, Range 18 East W.M.; thence north along said north-south centerline to the east-west centerline of said Section 30; thence west along said east-west centerline to the north-south centerline of the west half of said Section 30; thence north along said north-south centerline to the Yakima Valley Canal; thence following the Yakima Valley Canal in a generally westerly direction to its intersection with Tieton Drive; thence west on Tieton Drive to 96th Avenue; thence north on 96th Avenue to the northwest corner of the southwest quarter of Section 19, Township 13 N., Range 18 E., W.M.; thence north along the west section line of said Section 19 to a point 250 feet south of the northwest corner of the southwest quarter of the northwest quarter of said Section 19; thence north 89°33' East to the Tieton Canal; thence following the Tieton Canal in a generally northeasterly direction to the north-south centerline of the east half of said Section 19; thence north along said north-south centerline to the north-south centerline of the east half of Section 18, Township 13 N., Range 18 E., W.M.; thence north along said

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north-south centerline of said Section 18 to the east-west centerline of the south half of said Section 18; thence east along said east-west centerline to the west line of Section 17, Township 13 N., Range 18 E., W.M.; thence north along said west line to the east-west centerline of said Section 17; thence east along said east-west centerline to the east line of said Section 17; thence north along said east line to the south right-of-way line of the former Burlington Northern Railroad, Cowiche Branch; thence following said south right-of-way line in a generally northeasterly direction to the north right-of-way line of State Route 12; thence following said north right-of-way line in a generally southeasterly direction to Cowiche Creek; thence following Cowiche Creek in a generally northeasterly direction to its confluence with the Naches River; thence following the south bank of the Naches River and the south bank of the Yakima River in a generally easterly direction to the north-south centerline of the east half of Section 12, Township 13 N., Range 18 E., W.M.; thence north along said north-south centerline to Rest Haven Road; thence following Rest Haven Road in a generally southeasterly direction to the south line of Section 8, Township 13 N., Range 19 E., W.M.; thence east along the south line of Sections 8 and 9 to the southwest corner of Lot 3 of that certain short plat recorded in Volume 81, Page 133, Short Plat Records of Yakima County; thence continuing east 260 feet along said south section line; thence North 0°02'34" east 270.51 feet; thence north 38°30'50" east 146.66 feet; thence north 47°30'24" east 63.80 feet; thence north 77°58'20" east 1,026.46 feet; thence north 71°00' east 255.38 feet; thence north 59°00' east to the north line of the southwest quarter the southwest quarter of Section 10, Township 13 N., Range 19 E., W.M., thence easterly along said north line to the Northeast corner of said subdivision; thence southerly along the east line of the south-west quarter of the southwest quarter of said Section 10 to the south-east corner of said subdivision; thence westerly along the south line of said Section 10 to the northwest corner of Section 15, Township 13 N., Range 19 E., W.M., thence southerly along the west line of said Section 15 to the southwest corner of the northwest quarter of said Section 15; thence easterly along said east-west centerline to the southeast corner of the northeast quarter of said Section 15; thence easterly along the east-west centerline of Section 14, Township 13 N, Range 19 E., W.M. to the northeast corner of the northwest quarter of the southwest quarter of said Section 14; thence southerly along the north-south centerline of the west half of said Section 14 to the southeast corner of the southwest quarter of the southwest quarter of said Section 14; thence easterly along the south line of said Section 14 to the northeast corner of Section 23,

Township 13 N., Range 19 E., W.M.; thence southerly along the east line of said Section 23 to the southeast corner of said Section 23; thence westerly along the south lines of Sections 23, 22, 21 and 20, Township 13 N., Range 19 E., W.M. to the west bank of the Yakima River; thence following said west bank in a generally southerly direction to a point where it intersects the east right-of-way line of Interstate Highway 82; thence westerly to the point where the west right-of-way line of said interstate highway intersects the south line of Government Lot 2 of Section 17, Township 12 N., Range 19 E., W.M.; thence westerly along the south line of said Government Lot 2 and of Government Lot 5 of said Section 17 to the south-west corner of said Government Lot 5 and the point of beginning.

C. YAKIMA CO NONATTAINMENT AREA. (40 CFR 81.348)

The boundaries and UTM (App. B) coordinates are described as the following:

UTMW	UTMN	Street - Intersection
689.06	5160.91	S 16th Ave/W Mead Ave
688.92	5165.05	S 16th Ave/Hthwy Ave
690.35	5465.10	E "I" St/N 1st St
690.49	5164.63	N 1st St/E "G" St
691.31	5165.01	E "G" St N N 8th St
691.70	5164.07	N 8th St/Pitcher St
692.42	5164.09	Pitcher St/I-82 Intrchge
693.18	5162.80	Nob Hill Blvd Intrchge
693.58	5161.61	Nob Hill Blvd Intrchge
693.66	5159.57	Rudkin Road Intrchge
693.06	5159.55	S 1st Old Town Rd/Mn St
692.43	5160.32	W Washington/S 1st St
682.05	5161.07	E Mead Ave/S 1st St
689.06	5160.91	S 16th Ave/W Mead Ave

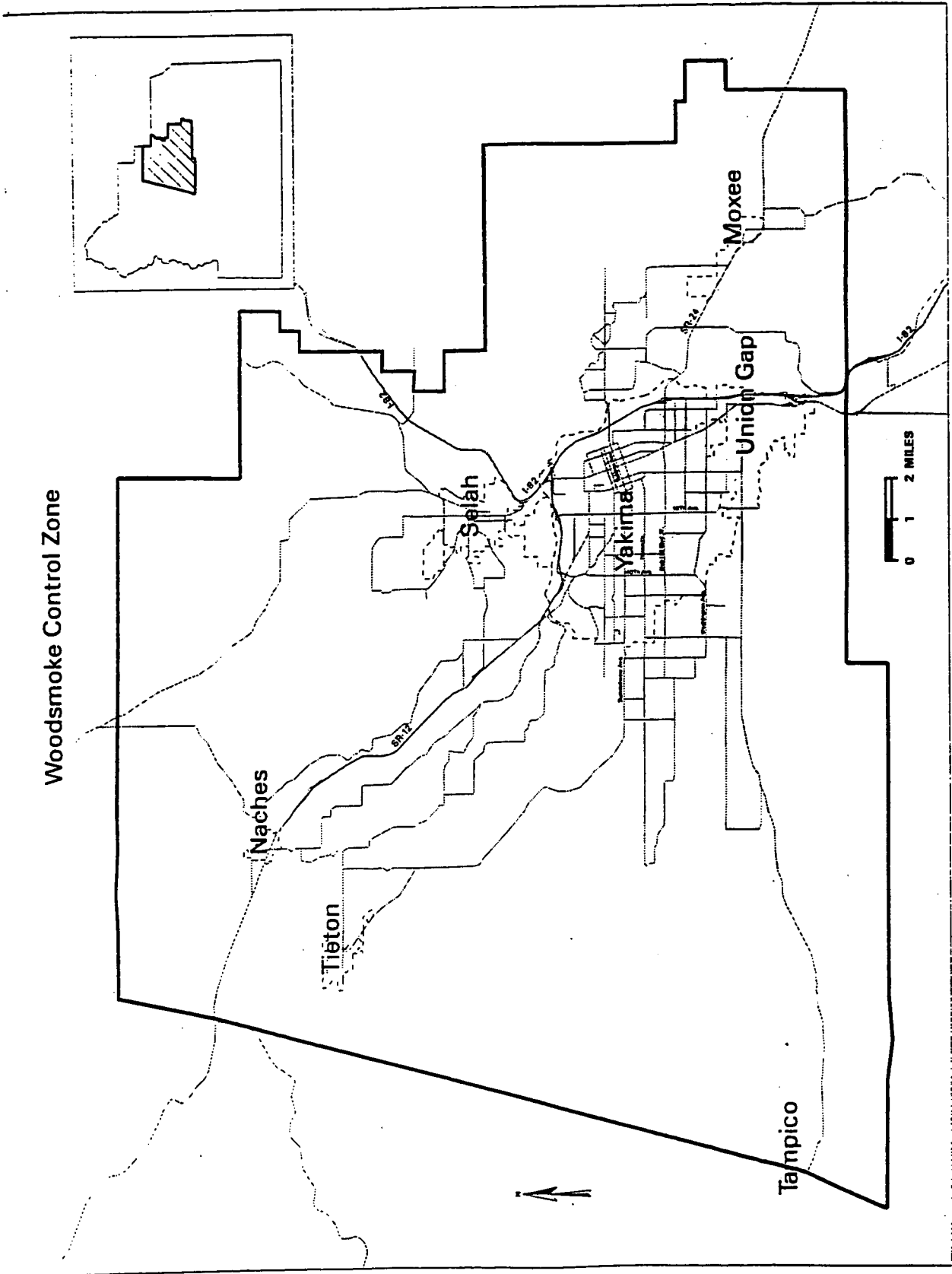
D. YAKIMA PM₁₀ NONATTAINMENT AREA. (40 CFR 81.349)

The corners and UTM coordinates are:

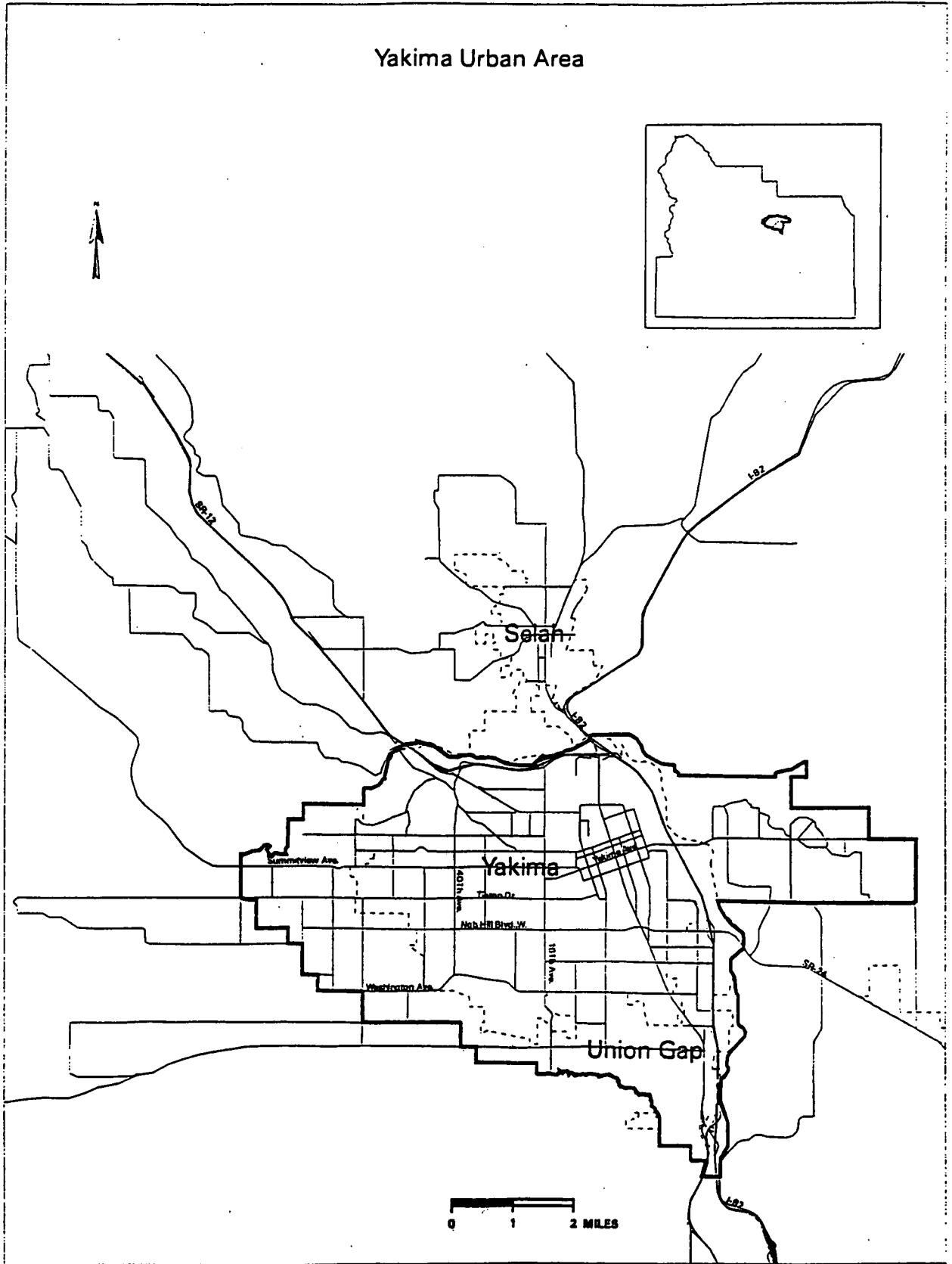
Corner	UTMW	UTMN
Southeast	694.00	5157.00
Southwest	681.00	5157.00
Northwest	681.00	5172.00
Northeast	694.00	5172.00

**APPENDIX I
Maps**

<u>Name</u>	<u>PageNumber</u>
<u>Woodsmoke Control Zone</u>	<u>I-2</u>
<u>Yakima Urban Area</u>	<u>I-3</u>
<u>Yakima CO Nonattainment Area</u>	<u>I-4</u>
<u>Yakima PM₁₀ Nonattainment Area</u>	<u>I-5</u>

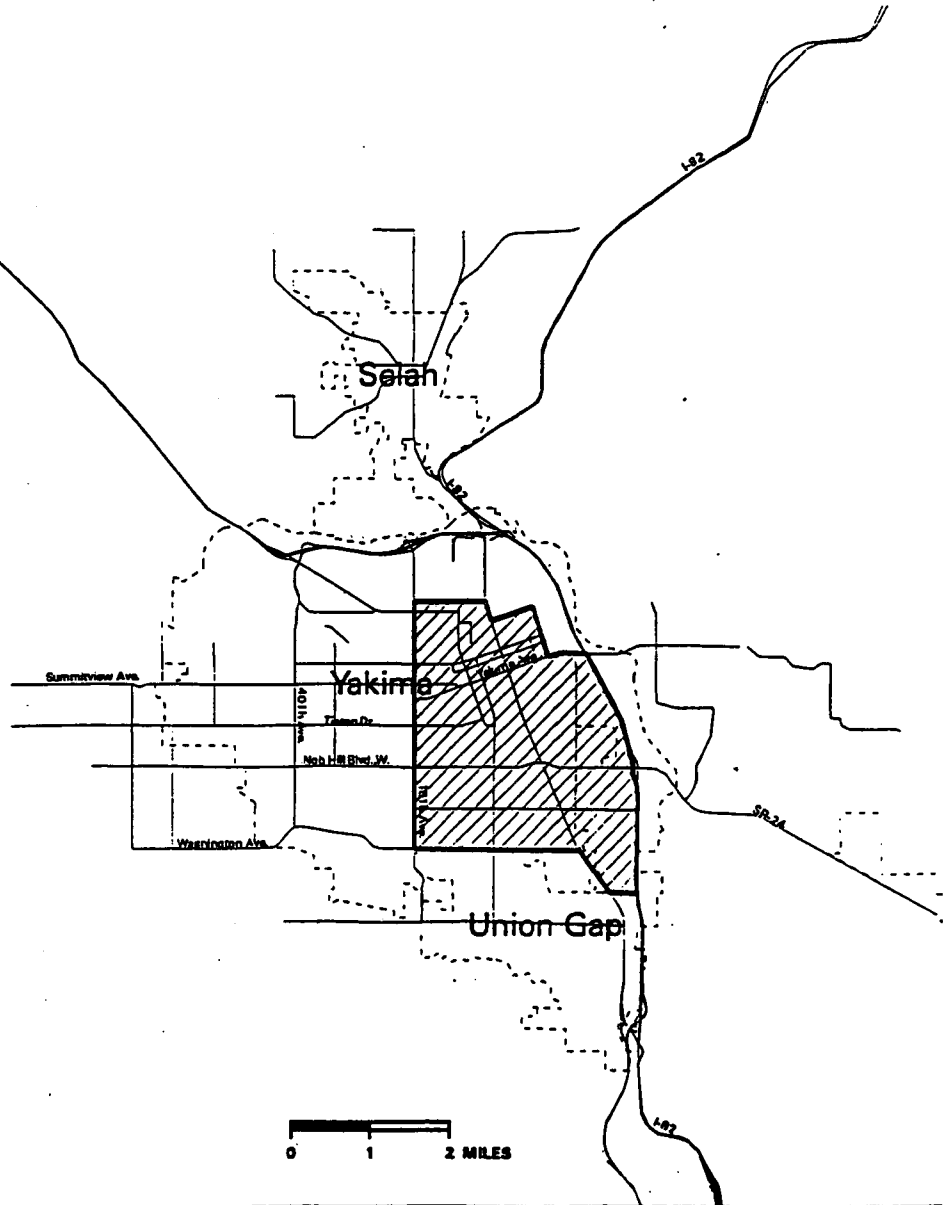
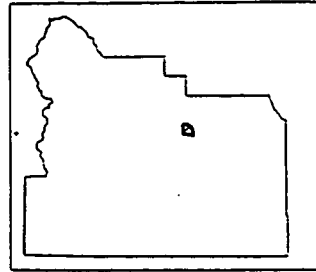


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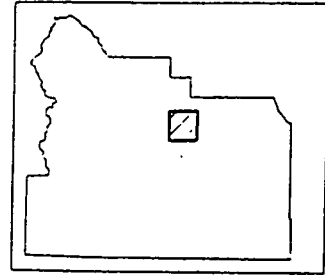
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Yakima CO Nonattainment Area

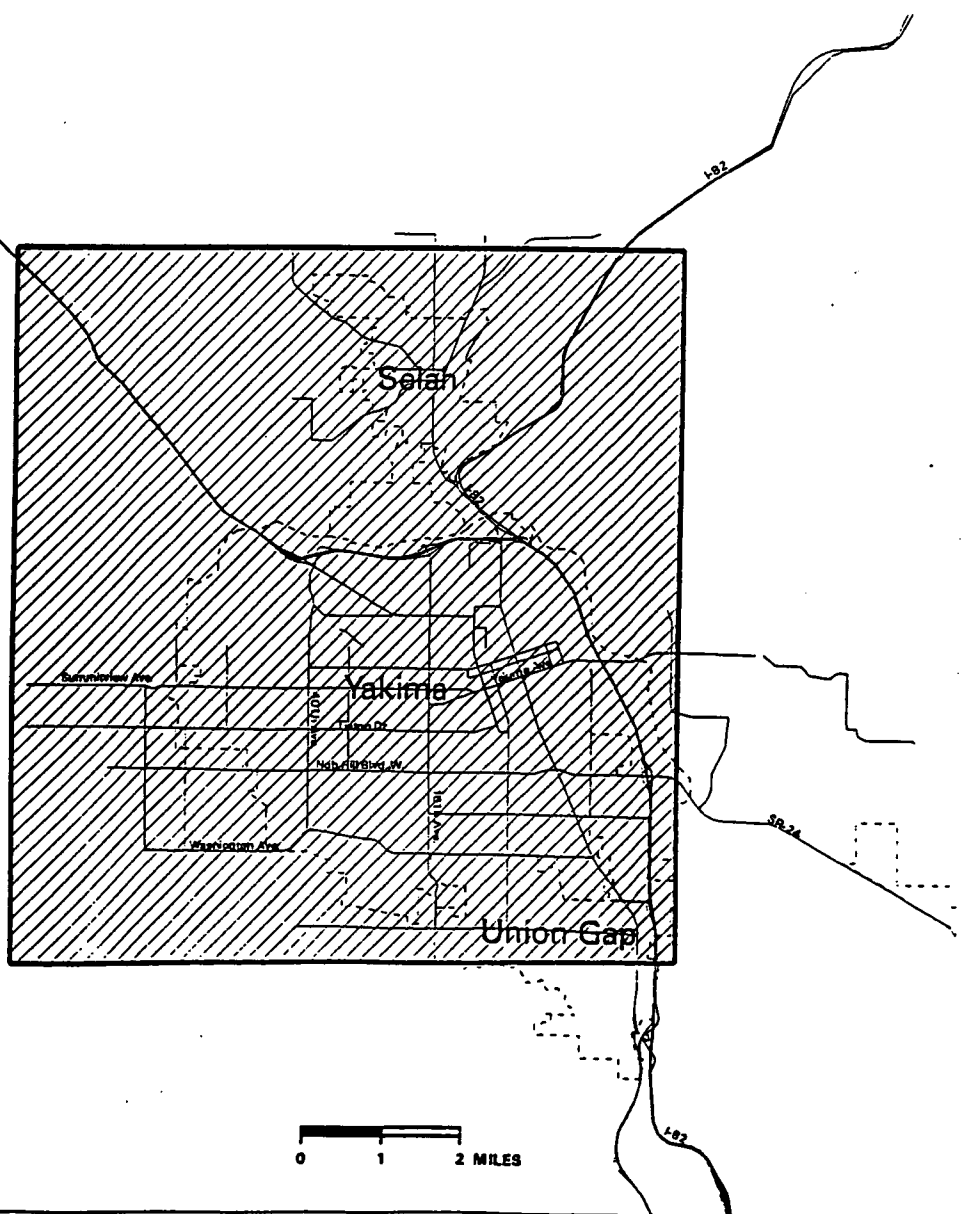


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Yakima PM₁₀ Nonattainment Area



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APPENDIX I (New Appendix)**ERC Discounting Factors**

(Reserved for later use)

APPENDIX K**New Source Review Application Information**

This appendix provides specific information on exemptions for NSR (*App. B*) applications under section 4.02.

A. EMISSION UNIT AND ACTIVITY EXEMPTIONS FOR NON-TOXIC AIR POLLUTANTS. (WAC 173-400-110(4))**1. Maintenance/Construction.**

- a. Cleaning and sweeping of streets and paved surfaces;
- b. Concrete application, and installation;
- c. Dredging wet spoils handling and placement;
- d. Paving application and maintenance, excluding asphalt plants;

e. Plant maintenance and upkeep activities including ground keeping, general repairs, routine house keeping, routine plant painting, welding, cutting, brazing, soldering, plumbing, retarring roofs, etc.;

f. Plumbing installation, plumbing protective coating application and maintenance activities;

g. Roofing application;

h. Insulation application and maintenance, excluding products for resale;

i. Janitorial services and consumer use of janitorial products.

2. Storage Tanks.

a. Lubricating oil storage tanks except those facilities that are wholesale or retail distributors of lubricating oils;

b. Polymer tanks and storage devices and associated pumping and handling equipment, used for solids dewatering and flocculation;

c. Storage tanks, reservoirs, pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions;

d. Process and white water storage tanks;

e. Operation, loading and unloading of storage tanks, and storage vessels, with lids or other appropriate closures and less than 260 gallon capacity (35 cf);

f. Operation, loading and unloading of storage tanks, ≤ 1,100 gallon capacity, with lids or other appropriate closure, not for use with materials containing TAP (*App. B*), as defined in 173-460 WAC, max. VP 550 mm Hg @ 21°C (*App. B*);

g. Operation, loading and unloading storage of butane, propane, or LP gas (*App. B*) with a vessel capacity < 40,000 gallons;

h. Tanks, vessels and pumping equipment, with lids or other appropriate closure for storage or dispensing of aqueous solutions of inorganic salts, bases and acids.

3. Projects with Combined Aggregate Heat Inputs of Combustion Units, ≤ all of the Following:

a. ≤500,000 Btu/hr (*App. B*) using coal with ≤ 0.5% sulfur or other fuels with ≤ 0.5% sulfur;

b. ≤500,000 Btu/hr used oil, per the requirements of RCW 70.94.610;

c. ≤400,000 Btu/hr wood waste or paper;

d. <1,000,000 Btu/hr using kerosene, #1 or #2 fuel oil and with ≤0.05% sulfur.

e. ≤4,000,000 Btu/hr using natural gas, propane, or LP gas.

4. Material Handling:

a. Continuous digester chip feeders;

b. Grain elevators not licensed as warehouses or dealers by either the DOA (*App. B*) or USDA (*App. B*);

c. Storage and handling of water based lubricants for metal working where organic content of the lubricant is ≤ 10%;

d. Equipment used exclusively to pump, load, unload, or store high boiling point organic material in tanks less than 1,000,000 gallon, material with initial atmospheric boiling point not less than 150°C or vapor pressure not more than 5 mm Hg @21°C, with lids or other appropriate closure.

5. Water Treatment:

a. Septic sewer systems, not including active wastewater treatment facilities;

b. NPDES (*App. B*) permitted ponds and lagoons used solely for the purpose of settling suspended solids and skimming of oil and grease;

c. De-aeration (O₂ scavenging) of water where toxic air pollutants as defined in chap. 173-460 WAC are not emitted;

d. Process water filtration system and demineralize vents;

e. Sewer manholes, junction boxes, sumps, and lift stations associated with wastewater treatment systems;

f. Demineralize tanks;

g. Alum tanks;

h. Clean water condensate tanks.

6. Environmental Chambers and Laboratory Equipment:

a. Environmental chambers and humidity chambers not using toxic air pollutant gases, as regulated under 173-460 WAC;

b. Gas cabinets using only gases that are not toxic air pollutants regulated under 173-460 WAC;

c. Installation or modification of a single laboratory fume hood;

d. Laboratory calibration and maintenance equipment.

7. Monitoring/Quality Assurance/Testing:

a. Equipment and instrumentation used for quality control/assurance or inspection purpose;

b. Hydraulic and hydrostatic testing equipment;

c. Sample gathering, preparation, and management;

d. Vents from continuous emission monitors and other analyzers.

8. Miscellaneous:

a. Single-family residences and duplexes;

b. Plastic pipe welding;

c. Primary agricultural production activities including soil preparation, planting, fertilizing, weed and pest control, and harvesting;

d. Comfort air conditioning;

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- e. Flares used to indicate danger to public;
- f. Natural and forced air vents and stacks for bathroom/toilet activities;
- g. Personal care activities;
- h. Recreational fireplaces used for barbecues, campfires, or ceremonial fires;
- I. Tobacco smoking rooms and areas;
- j. Noncommercial smokehouses;
- k. Blacksmith forges for single forges;
- l. Vehicle maintenance activities, not including vehicle surface coating;
- m. Vehicle or equipment washing;
- n. Wax application;
- o. Oxygen, nitrogen, or rare gas extraction and liquefaction equipment not including internal and external combustion equipment;
- p. Ozone generators and ozonation equipment;
- q. Solar simulators;
- r. Ultraviolet curing processes, to the extent that toxic air pollutant gases as defined in 173-460 WAC are not emitted;
- s. Electric circuit breakers, transformers, or switching equipment installation or operation;
- t. Pulse capacitors;
- u. Pneumatically operated equipment, including tools and hand held applicator equipment for hot melt adhesives;
- v. Recovery boiler blow-down tank;
- w. Screw press vents;
- x. Drop hammers or hydraulic presses for forging or metal working;

- y. Production of foundry sand molds, unheated and using binders less than 0.25% free phenol by sand weight;
 - z. Kraft lime mud storage tanks and process vessels;
 - aa. Lime grits washers, filters and handling;
 - bb. Lime mud filtrate tanks;
 - cc. Lime mud water;
 - dd. Stock cleaning and pressurized pulp washing down process of the brown stock washer;
 - ee. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities and transportation marketing facilities;
 - ff. Nontoxic air pollutant, as defined in 173-460 WAC, solvent cleaners less than 10 sf (App. B) air-vapor interface with solvent vapor pressure not more than 30 mm Hg @21°C;
 - gg. Surface coating, aqueous solution or suspension containing ≤ 1% (by weight) VOCs (App. B), and/or toxic air pollutants as defined in 173-460 WAC;
 - hh. Cleaning and stripping activities and equipment using solutions having ≤ 1% VOCs (by weight); on metallic substances, acid solutions are not exempt;
 - ii. Dip coating operations, using materials less than 1% VOCs (by weight) and/or toxic air pollutants as defined in 173-460 WAC.
- B. TOXIC AIR POLLUTANTS.**
- 1. Class A TAP, (WAC 173-460—150)**
- a. Table K-1, Class A TAP, Known, Probable, and Potential Human Carcinogens.

**Chemical
Abstract
Service
Number**

Substance

75-07-0	Acetaldehyde
53-96-3	2-Acetylaminofluorene
79-06-1	Acrylamide
107-13-1	Acrylonitrile
309-00-2	Aldrin
SSS	Aluminum smelter polyaromatic hydrocarbon emissions
117-79-3	2-Aminoanthraquinone
97-56-3	o-Aminoazotoluene
92-67-1	4-Aminobiphenyl
61-82-5	Amitrole
62-53-3	Aniline
90-04-0	o-Anisidine
C7440-38-2	Arsenic and inorganic arsenic compounds
1332-21-4	Asbestos
2465-27-2	Auramine (technical grade)
71-43-2	Benzene
92-87-5	Benzidine and its salts
56-55-3	Benzo(a)anthracene
50-32-8	Benzo(a)pyrene

**Chemical
Abstract
Service
Number****Substance**

<u>205-99-2</u>	<u>Benzo(b)fluoranthene</u>
<u>205-82-3</u>	<u>Benzo(j)fluoranthene</u>
<u>207-08-9</u>	<u>Benzo(k)fluoranthene</u>
<u>1694-09-3</u>	<u>Benzyl violet 4b</u>
<u>7440-41-7</u>	<u>Beryllium and compounds</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>
<u>117-81-7</u>	<u>Bis(2-ethylhexyl)phthalate (DEHP)</u>
<u>542-88-1</u>	<u>Bis(chloromethyl)ether</u>
<u>75-25-2</u>	<u>Bromoform</u>
<u>106-99-0</u>	<u>1,3-Butadiene</u>
<u>3068-88-0</u>	<u>B-Butyrolactone</u>
<u>7440-43-9</u>	<u>Cadmium and compounds</u>
<u>56-23-5</u>	<u>Carbon tetrachloride</u>
<u>57-74-9</u>	<u>Chlordane</u>
<u>510-15-6</u>	<u>Chlorobenzilate</u>
<u>67-66-3</u>	<u>Chloroform</u>
<u>107-30-2</u>	<u>Chloromethyl methyl ether (technical-grade)</u>
<u>108-43-0</u>	<u>Chlorophenols</u>
<u>126-99-8</u>	<u>Chloroprene</u>
<u>C7440-47-3</u>	<u>Chromium, hexavalent metal and compounds</u>
<u>SSS</u>	<u>Coke oven emissions</u>
<u>8001-58-9</u>	<u>Creosote</u>
<u>135-20-6</u>	<u>Cupferron</u>
<u>94-75-7</u>	<u>2,4-D and esters</u>
<u>3547-04-4</u>	<u>DDE (p,p'-Dichlorodipenyldichloroethylene)</u>
<u>50-29-3</u>	<u>DDT (1,1,1 Trichloro-2,2-Bis(p-chlorophenyl)-ethane)</u>
<u>613-35-4</u>	<u>N,N-Diacetylbenzidine</u>
<u>101-80-4</u>	<u>4,4'-Diaminodiphenyl ether</u>
<u>226-36-8</u>	<u>Dibenz(a,h)acridine</u>
<u>53-70-3</u>	<u>Dibenz(a,h)anthracene</u>
<u>224-42-0</u>	<u>Dibenz(a,j)acridine</u>
<u>132-64-9</u>	<u>Dibenzofurans</u>
<u>189-64-0</u>	<u>Dibenzo(a,h)pyrene</u>
<u>191-30-0</u>	<u>Dibenzo(a,l)pyrene</u>
<u>189-55-9</u>	<u>1,2,7,8-Dibenzopyrene (dibenzo(a,i)pyrene)</u>
<u>192-65-4</u>	<u>Dibenzo(a,e)pyrene</u>
<u>764-41-0</u>	<u>1,4-Dichloro-2-butene</u>
<u>28434-86-8</u>	<u>3,3'-Dichloro-4,4'-diaminodiphenyl ether</u>
<u>106-46-7</u>	<u>1,4-Dichlorobenzene</u>
<u>91-94-1</u>	<u>3, 3'-Dichlorobenzidine</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane (ethylene chloride)</u>
<u>75-09-2</u>	<u>Dichloromethane (methylene chloride)</u>
<u>696-28-6</u>	<u>Dichlorophenylarsine (arsenic group)</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>

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**Chemical
Abstract
Service
Number**

Substance

<u>60-57-1</u>	<u>Dieldrin</u>
<u>1615-80-1</u>	<u>1,2-Diethylhydrazine</u>
<u>101-90-6</u>	<u>Diglycidyl resorcinol ether</u>
<u>119-90-4</u>	<u>3,3'-Dimethoxybenzidine (ortol-dianisidine)</u>
<u>119-93-7</u>	<u>3,3-Dimethyl benzidine</u>
<u>77-78-1</u>	<u>Dimethyl sulfate</u>
<u>540-73-8</u>	<u>1,2-Dimethylhydrazine</u>
<u>123-91-1</u>	<u>1,4-Dioxane</u>
<u>SSS</u>	<u>Dioxins and furans</u>
<u>122-66-7</u>	<u>1,2-Diphenylhydrazine</u>
<u>106-89-8</u>	<u>Epichlorohydrin</u>
<u>106-93-4</u>	<u>Ethylene dibromide (dibromethane)</u>
<u>75-21-8</u>	<u>Ethylene oxide</u>
<u>96-45-7</u>	<u>Ethylene thiourea</u>
<u>50-00-0</u>	<u>Formaldehyde</u>
<u>67-45-8</u>	<u>Furazolidone</u>
	<u>Furium (nitrofurans group)</u>
<u>765-34-4</u>	<u>Glyciadialdehyde</u>
<u>76-44-8</u>	<u>Heptachlor</u>
<u>118-74-1</u>	<u>Hexachlorobenzene</u>
<u>319-84-6</u>	<u>Hexachlorocyclohexane (Lindane) Alpha BHC</u>
<u>319-85-7</u>	<u>Hexachlorocyclohexane (Lindane) Beta BHC</u>
<u>58-89-9</u>	<u>Hexachlorocyclohexane (Lindane) Gamma BHC</u>
<u>680-31-9</u>	<u>Hexamethylphosphoramide</u>
<u>302-01-2</u>	<u>Hydrazine</u>
<u>193-39-5</u>	<u>Indeno(1,2,3-cd)pyrene</u>
<u>SSS</u>	<u>Isopropyl oils</u>
<u>SSS</u>	<u>Lead compounds</u>
<u>301-04-2</u>	<u>Lead acetate</u>
<u>7446-27-7</u>	<u>Lead phosphate</u>
<u>129-15-7</u>	<u>2-Methyl-1-nitroanthraquinone</u>
<u>592-62-1</u>	<u>Methyl azoxymethyl acetate</u>
<u>3697-24-3</u>	<u>5-Methylchrysene</u>
<u>101-14-4</u>	<u>4,4'-Methylenebis(2-chloroaniline) (MBOCA)</u>
<u>838-88-0</u>	<u>4,4'-Methylenebis(2-methylaniline)</u>
<u>101-77-9</u>	<u>4,4-Methylene dianiline</u>
<u>13552-44-8</u>	<u>4,4-Methylenedianiline dihydrochloride</u>
<u>64091-91-4</u>	<u>4-(Methylnitrosamino)-1-(3-pyridyl)-1-butanone</u>
<u>2385-85-5</u>	<u>Mirex</u>
<u>139-91-3</u>	<u>5-(Morpholinomethyl)-3-amino)- 2-oxazolidinone (furaltudone)</u>
<u>134-32-7</u>	<u>1-Naphthylamine</u>
<u>C7440-02-0</u>	<u>Nickel and compounds (as nickel subsulfide or nickel refinery dust)</u>
<u>531-82-8</u>	<u>N-(4-(5-Nitro-2-furyl)-2-thiazolyl)acetamide</u>

**Chemical
Abstract
Service
Number**

Substance

<u>602-87-9</u>	<u>5-Nitroacenaphthene</u>
<u>1836-75-5</u>	<u>Nitrofen</u>
	<u>Nitrofurans</u>
<u>59-87-0</u>	<u>Nitrofurazone</u>
<u>555-84-9</u>	<u>1-(5-Nitrofurfurylidene)amino)-2-imidazolidinone</u>
<u>126-85-2</u>	<u>Nitrogen mustard N-oxide</u>
<u>302-70-5</u>	<u>Nitrogen mustard N-oxide hydrochloride</u>
<u>79-46-9</u>	<u>2-Nitropropane</u>
<u>924-16-3</u>	<u>N-Nitrosodi-n-butylamine</u>
<u>759-73-9</u>	<u>N-Nitroso-N-ethylurea (NEU)</u>
<u>615-53-2</u>	<u>N-Nitroso-N-methylurethane</u>
<u>621-64-1</u>	<u>N-Nitrosodi-n-propylamine</u>
<u>10595-95-6</u>	<u>N-Nitrosomethylethylamine</u>
<u>59-89-2</u>	<u>N-Nitrosomorpholine</u>
<u>86-30-6</u>	<u>N-Nitrosodiphenylamine</u>
<u>55-18-5</u>	<u>N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)</u>
<u>62-75-9</u>	<u>N-Nitrosodimethylamine</u>
<u>2646-17-5</u>	<u>Oil orange SS</u>
<u>794-93-4</u>	<u>Panfuran S (dihydroxymethylfuratrizine)</u>
<u>87-86-5</u>	<u>Pentachlorophenol</u>
<u>127-18-4</u>	<u>Perchloroethylene (tetrachloroethylene)</u>
<u>63-92-3</u>	<u>Phenoxybenzamine hydrochloride</u>
	<u>N-Phenyl-2-naphthylamine</u>
<u>SSS</u>	<u>Polyaromatic hydrocarbons (PAH)</u>
<u>1336-36-3</u>	<u>Polychlorinated biphenyls (PCBs)</u>
<u>3761-53-3</u>	<u>Ponceau MX</u>
	<u>P(p)(alpha, alpha, alpha)-Tetra-chlorotoluene</u>
<u>SSS</u>	<u>Primary aluminum smelter</u>
<u>1120-71-4</u>	<u>1,3-Propane sultone</u>
<u>75-56-9</u>	<u>Propylene oxide</u>
<u>1746-01-6</u>	<u>2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)</u>
<u>139-65-1</u>	<u>4,4'-Thiodianiline</u>
<u>1314-20-1</u>	<u>Thorium dioxide</u>
<u>95-80-7</u>	<u>2,4-Toluene diamine</u>
<u>584-84-9</u>	<u>2,4-Toluene diisocyanate</u>
<u>95-53-4</u>	<u>o-Toluidine</u>
<u>636-21-5</u>	<u>o-Toluidine hydrochloride</u>
<u>8001-35-2</u>	<u>Toxaphene</u>
<u>55738-54-0</u>	<u>Trans-2((Dimethylamino)methylimino)-5-(2-(5-nitro-2-furyl) vinyl)-1,3,4-oxadiazole</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>
<u>88-06-2</u>	<u>2,4,6-Trichlorophenol</u>
<u>75-01-4</u>	<u>Vinyl chloride</u>

b. Table K-2. Class A TAP with Established ASILs. (WAC 1273-460-150(2))

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>10⁻⁶ Risk ASIL µg/m³ Annual Average</u>
<u>75-07-0</u>	<u>Acetaldehyde</u>	<u>0.4500000</u>
<u>79-06-1</u>	<u>Acrylamide</u>	<u>0.0007700</u>
<u>107-13-1</u>	<u>Acrylonitrile</u>	<u>0.0150000</u>
<u>309-00-2</u>	<u>Aldrin</u>	<u>0.0002000</u>
<u>62-53-3</u>	<u>Aniline</u>	<u>6.3000000</u>
<u>C7440-38-2</u>	<u>Arsenic and inorganic arsenic compounds</u>	<u>0.0002300</u>
<u>1332-21-4</u>	<u>Asbestos in fibers/ml</u>	<u>0.0000044</u>
<u>71-43-2</u>	<u>Benzene</u>	<u>0.1200000</u>
<u>92-87-5</u>	<u>Benzidine and its salts</u>	<u>0.0000150</u>
<u>50-32-8</u>	<u>Benzo(a)pyrene</u>	<u>0.0004800</u>
<u>7440-41-7</u>	<u>Beryllium and compounds</u>	<u>0.0004200</u>
<u>111-44-4</u>	<u>Bis(2-chloroethyl)ether</u>	<u>0.0030000</u>
<u>117-81-7</u>	<u>Bis(2-ethylhexyl)phthalate (DEHP)</u>	<u>2.5000000</u>
<u>542-88-1</u>	<u>Bis(chloromethyl)ether</u>	<u>0.0000160</u>
<u>75-25-2</u>	<u>Bromoform</u>	<u>0.9100000</u>
<u>106-99-0</u>	<u>1,3-Butadiene</u>	<u>0.0036000</u>
<u>7440-43-9</u>	<u>Cadmium and compounds</u>	<u>0.0005600</u>
<u>57-74-9</u>	<u>Chlordane</u>	<u>0.0027000</u>
<u>510-15-6</u>	<u>Chlorobenzilate</u>	<u>0.2000000</u>
<u>67-66-3</u>	<u>Chloroform</u>	<u>0.0430000</u>
<u>108-43-0</u>	<u>Chlorophenols</u>	<u>0.1800000</u>
<u>C7440-47-3</u>	<u>Chromium, hexavalent metal and compounds</u>	<u>0.0000830</u>
<u>=====</u>	<u>Coke oven emissions</u>	<u>0.0016000</u>
<u>3547-04-4</u>	<u>DDE (p,p'-Dichlorodipenyldichloroethylene)</u>	<u>0.1000000</u>
<u>50-29-3</u>	<u>DDT (1,1,1 Trichloro-2,2-Bis(p-chlorophenyl)-ethane)</u>	<u>0.0100000</u>
<u>764-41-0</u>	<u>1,4-Dichloro-2-butene</u>	<u>0.0003800</u>
<u>106-46-7</u>	<u>1,4-Dichlorobenzene</u>	<u>1.5000000</u>
<u>91-94-1</u>	<u>3, 3'-Dichlorobenzidine</u>	<u>0.0770000</u>
<u>107-06-2</u>	<u>1,2-Dichloroethane (ethylene chloride)</u>	<u>0.0380000</u>
<u>75-09-2</u>	<u>Dichloromethane (methylene chloride)</u>	<u>0.5600000</u>
<u>60-57-1</u>	<u>Dieldrin</u>	<u>0.0002200</u>
<u>119-93-7</u>	<u>3,3-Dimethyl benzidine</u>	<u>0.0038000</u>
<u>123-91-1</u>	<u>1,4-Dioxane</u>	<u>0.0320000</u>
<u>122-66-7</u>	<u>1,2-Diphenylhydrazine</u>	<u>0.0045000</u>
<u>106-89-8</u>	<u>Epichlorohydrin</u>	<u>0.8300000</u>
<u>106-93-4</u>	<u>Ethylene dibromide (dibromethane)</u>	<u>0.0045000</u>
<u>75-21-8</u>	<u>Ethylene oxide</u>	<u>0.0100000</u>
<u>96-45-7</u>	<u>Ethylene thiourea</u>	<u>1.0000000</u>
<u>50-00-0</u>	<u>Formaldehyde</u>	<u>0.0770000</u>
<u>76-44-8</u>	<u>Heptachlor</u>	<u>0.0007700</u>
<u>118-74-1</u>	<u>Hexachlorobenzene</u>	<u>0.0022000</u>
<u>58-89-9</u>	<u>Hexachlorocyclohexane (Lindane) Gamma BHC</u>	<u>0.0026000</u>
<u>302-01-2</u>	<u>Hydrazine</u>	<u>0.0002000</u>
<u>C7440-02-0</u>	<u>Nickel and compounds (as nickel subsulfide or nickel refinery dust)</u>	<u>0.0021000</u>

PROPOSED

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>10⁻⁶ Risk ASIL $\mu\text{g}/\text{m}^3$ Annual Average</u>
<u>924-16-3</u>	<u>N-Nitrosodi-n-butylamine</u>	<u>0.0006300</u>
<u>55-18-5</u>	<u>N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)</u>	<u>0.0000230</u>
<u>62-75-9</u>	<u>N-Nitrosodimethylamine</u>	<u>0.0000710</u>
<u>79-46-9</u>	<u>2-Nitropropane</u>	<u>0.0003700</u>
<u>87-86-5</u>	<u>Pentachlorophenol</u>	<u>0.3300000</u>
<u>127-18-4</u>	<u>Perchloroethylene (tetrachloroethylene)</u>	<u>1.1000000</u>
<u>1336-36-3</u>	<u>Polychlorinated biphenyls (PCBs)</u>	<u>0.0045000</u>
<u>75-56-9</u>	<u>Propylene oxide</u>	<u>0.2700000</u>
<u>1746-01-6</u>	<u>2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)</u>	<u>0.00000003</u>
<u>95-80-7</u>	<u>2,4-Toluene diamine</u>	<u>0.0110000</u>
<u>95-53-4</u>	<u>o-Toluidine</u>	<u>0.1400000</u>
<u>636-21-5</u>	<u>o-Toluidine hydrochloride</u>	<u>0.1400000</u>
<u>8001-35-2</u>	<u>Toxaphene</u>	<u>0.0031000</u>
<u>79-01-6</u>	<u>Trichloroethylene</u>	<u>0.5900000</u>
<u>88-06-2</u>	<u>2,4,6-Trichlorophenol</u>	<u>0.3200000</u>
<u>75-01-4</u>	<u>Vinyl chloride</u>	<u>0.0120000</u>

c. Table K-3. Class A TAP with Special ASILs. (WAC 173-460-150(3))

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL $\mu\text{g}/\text{m}^3$</u>	<u>Averaging Time</u>
<u>---</u>	<u>Primary aluminum smelter uncontrolled roof vent polyaromatic hydrocarbon (PAH) emissions 1/</u>	<u>0.0013</u>	<u>Annual</u>
<u>61-82-5</u>	<u>Amitrole</u>	<u>0.06</u>	<u>24 hr.</u>
<u>90-04-0</u>	<u>o-Anisidine</u>	<u>1.7</u>	<u>24 hr.</u>
<u>126-99-8</u>	<u>β-Chloroprene</u>	<u>120</u>	<u>24 hr.</u>
<u>94-75-7</u>	<u>2,4-D and esters</u>	<u>33</u>	<u>24 hr.</u>
<u>78-87-5</u>	<u>1,2-Dichloropropane</u>	<u>4.0</u>	<u>24 hr.</u>
<u>77-78-1</u>	<u>Dimethyl sulfate</u>	<u>1.7</u>	<u>24 hr.</u>
<u>540-73-8</u>	<u>1,2-Dimethylhydrazine</u>	<u>4.0</u>	<u>24 hr.</u>
<u>319-84-6</u>	<u>Hexachlorocyclohexane (Lindane) Alpha BHC</u>	<u>1.7</u>	<u>24 hr.</u>
<u>319-85-7</u>	<u>Hexachlorocyclohexane (Lindane) Beta BHC</u>	<u>1.7</u>	<u>24 hr.</u>
<u>---</u>	<u>Lead compounds</u>	<u>0.5</u>	<u>24 hr.</u>
<u>101-14-4</u>	<u>4,4'-Methylenebis(2-chloroaniline) (MBOCA)</u>	<u>0.7</u>	<u>24 hr.</u>
<u>---</u>	<u>Polyaromatic hydrocarbon (PAH) emissions 1/</u>	<u>0.00048</u>	<u>Annual</u>
<u>584-84-9</u>	<u>2,4-Toluene diisocyanate</u>	<u>0.12</u>	<u>24 hr.</u>

Footnotes

1/ See WAC 173-460-050 (4)(d)(i & ii) for the quantification procedure.

2. Table K-4. Class B TAP. Any Substance that is not a Simple Asphyxiant or Nuisance Particulate. (WAC 173-460-160)

PROPOSED

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
<u>86-88-4</u>	<u>ANTU</u>	<u>1.0</u>
<u>60-35-5</u>	<u>Acetamide</u>	<u>---</u>
<u>64-19-7</u>	<u>Acetic acid</u>	<u>83</u>
<u>108-24-7</u>	<u>Acetic anhydride</u>	<u>67</u>
<u>67-64-1</u>	<u>Acetone</u>	<u>5900</u>
<u>75-05-8</u>	<u>Acetonitrile</u>	<u>220</u>
<u>98-86-2</u>	<u>Acetophenone</u>	<u>---</u>
<u>79-27-6</u>	<u>Acetylene tetrabromide</u>	<u>47</u>
<u>107-02-8</u>	<u>Acrolein</u>	<u>0.02</u>
<u>79-10-7</u>	<u>Acrylic acid</u>	<u>0.30</u>
<u>107-18-6</u>	<u>Allyl alcohol</u>	<u>17</u>
<u>107-05-1</u>	<u>Allyl chloride</u>	<u>1.0</u>
<u>106-92-3</u>	<u>Allyl glycidyl ether (AGE)</u>	<u>77</u>
<u>2179-59-1</u>	<u>Allyl propyl disulfide</u>	<u>40.0</u>
<u>C7429-90-5</u>	<u>Aluminum, Al alkyls</u>	<u>6.7</u>
<u>7429-90-5</u>	<u>Aluminum, as AL metal dust</u>	<u>33</u>
<u>C7429-90-5</u>	<u>Aluminum, as AL pyro powders</u>	<u>17</u>
<u>C7429-90-5</u>	<u>Aluminum, as Al soluble salts</u>	<u>6.7</u>
<u>C7429-90-5</u>	<u>Aluminum, as Al welding fumes</u>	<u>17</u>
<u>504-29-0</u>	<u>2-Aminopyridine</u>	<u>6.3</u>
<u>7664-41-7</u>	<u>Ammonia</u>	<u>100</u>
<u>12125-02-9</u>	<u>Ammonium chloride fume</u>	<u>33</u>
<u>3825-26-1</u>	<u>Ammonium perfluorooctanoate</u>	<u>0.33</u>
<u>7773-06-0</u>	<u>Ammonium sulfamate</u>	<u>33</u>
<u>628-63-7</u>	<u>n-Amyl acetate</u>	<u>1800</u>
<u>626-38-0</u>	<u>sec-Amyl acetate</u>	<u>2200</u>
<u>62-53-3</u>	<u>Aniline & homologues</u>	<u>1.0</u>
<u>29191-52-4</u>	<u>Anisidine (o-,p- isomers)</u>	<u>1.7</u>
<u>C7440-36-0</u>	<u>Antimony & compounds as Sb</u>	<u>1.7</u>
<u>1309-64-4</u>	<u>Antimony trioxide, as Sb</u>	<u>1.7</u>
<u>7784-42-1</u>	<u>Arsine</u>	<u>0.53</u>
<u>8052-42-4</u>	<u>Asphalt (petroleum) fumes</u>	<u>17</u>
<u>1912-24-9</u>	<u>Atrazine</u>	<u>17</u>
<u>86-50-0</u>	<u>Azinphos-methyl</u>	<u>0.67</u>
<u>C7440-39-3</u>	<u>Barium, soluble compounds Ba</u>	<u>1.7</u>
<u>17804-35-2</u>	<u>Benomyl</u>	<u>33</u>
<u>98-07-7</u>	<u>Benzotrichloride</u>	<u>---</u>
<u>94-36-0</u>	<u>Benzoyl Peroxide</u>	<u>17</u>
<u>100-44-7</u>	<u>Benzyl chloride</u>	<u>17</u>
<u>92-52-4</u>	<u>Biphenyl</u>	<u>4.3</u>
<u>1304-82-1</u>	<u>Bismuth telluride</u>	<u>33</u>
<u>1304-82-1</u>	<u>Bismuth telluride Se doped</u>	<u>17</u>
<u>C1303-96-4</u>	<u>Borates, anhydrous</u>	<u>3.3</u>

PROPOSED

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
<u>C1303-96-4</u>	<u>Borates, decahydrate</u>	<u>17</u>
<u>C1303-96-4</u>	<u>Borates, pentahydrate</u>	<u>3.3</u>
<u>1303-86-2</u>	<u>Boron oxide</u>	<u>33</u>
<u>10294-33-4</u>	<u>Boron tribromide</u>	<u>33</u>
<u>76737-07-2</u>	<u>Boron trifluoride</u>	<u>9.3</u>
<u>314-40-9</u>	<u>Bromacil</u>	<u>33</u>
<u>7726-95-6</u>	<u>Bromine</u>	<u>2.2</u>
<u>7789-30-2</u>	<u>Bromine pentafluoride</u>	<u>2.4</u>
<u>106-97-8</u>	<u>Butane</u>	<u>6300.0</u>
<u>111-76-2</u>	<u>2-Butoxyethanol</u>	<u>400</u>
<u>123-86-4</u>	<u>n-Butyl acetate</u>	<u>2400</u>
<u>105-46-4</u>	<u>sec-Butyl acetate</u>	<u>3200</u>
<u>540-88-5</u>	<u>tert-Butyl acetate</u>	<u>3200</u>
<u>141-32-2</u>	<u>Butyl acrylate</u>	<u>170</u>
<u>71-36-3</u>	<u>n-Butyl alcohol</u>	<u>500</u>
<u>78-92-2</u>	<u>sec-Butyl alcohol</u>	<u>1000</u>
<u>75-65-0</u>	<u>tert-Butyl alcohol</u>	<u>1000</u>
<u>1189-85-1</u>	<u>tert-Butyl chromate, as CrO₃</u>	<u>0.33</u>
<u>2426-08-6</u>	<u>n-Butyl glycidyl ether (BGE)</u>	<u>440</u>
<u>138-22-7</u>	<u>n-Butyl lactate</u>	<u>83</u>
<u>109-79-5</u>	<u>n-Butyl mercaptan</u>	<u>6.0</u>
<u>109-73-9</u>	<u>n-Butylamine</u>	<u>50.0</u>
<u>89-72-5</u>	<u>o-sec-Butylphenol</u>	<u>100</u>
<u>98-51-1</u>	<u>p-tert-Butyltoluene</u>	<u>200</u>
<u>156-62-7</u>	<u>Calcium cyanamide</u>	<u>1.7</u>
<u>1305-62-0</u>	<u>Calcium hydroxide</u>	<u>17</u>
<u>1305-78-8</u>	<u>Calcium oxide</u>	<u>6.7</u>
<u>76-22-2</u>	<u>Camphor, synthetic</u>	<u>40</u>
<u>105-60-2</u>	<u>Caprolactam, dust</u>	<u>3.3</u>
<u>105-60-2</u>	<u>Caprolactam, vapor</u>	<u>67</u>
<u>2425-06-1</u>	<u>Captafol</u>	<u>0.33</u>
<u>133-06-2</u>	<u>Captan</u>	<u>17</u>
<u>63-25-2</u>	<u>Carbaryl</u>	<u>17</u>
<u>1563-66-2</u>	<u>Carbofuran</u>	<u>0.33</u>
<u>1333-86-4</u>	<u>Carbon black</u>	<u>12</u>
<u>75-15-0</u>	<u>Carbon disulfide</u>	<u>100</u>
<u>558-13-4</u>	<u>Carbon tetrabromide</u>	<u>4.7</u>
<u>353-50-4</u>	<u>Carbonyl fluoride</u>	<u>18</u>
<u>463-58-1</u>	<u>Carbonyl sulfide</u>	<u>==</u>
<u>120-80-9</u>	<u>Catechol</u>	<u>77</u>
<u>21351-79-1</u>	<u>Cesium hydroxide</u>	<u>6.7</u>
<u>133-90-4</u>	<u>Chloramben</u>	<u>==</u>
<u>55720-99-5</u>	<u>Chlorinated diphenyl oxide (hexachlorophenyl ether)</u>	<u>1.7</u>

PROPOSED

**Chemical
Abstract
Service
Number**

Substance

**ASIL
µg/m³
24 Hr.
Average**

<u>7782-50-5</u>	<u>Chlorine</u>	<u>5.0</u>
<u>10049-04-4</u>	<u>Chlorine dioxide</u>	<u>0.2</u>
<u>7790-91-2</u>	<u>Chlorine trifluoride</u>	<u>1.3</u>
<u>600-25-9</u>	<u>1-Chloro-1-nitropropane</u>	<u>33</u>
<u>107-20-0</u>	<u>Chloroacetaldehyde</u>	<u>11</u>
<u>79-11-8</u>	<u>Chloroacetic acid</u>	<u>---</u>
<u>532-27-4</u>	<u>o-Chloroacetophenone</u>	<u>1.1</u>
<u>79-04-9</u>	<u>Chloroacetyl chloride</u>	<u>0.67</u>
<u>2698-41-1</u>	<u>o-Chlorobenzylidene malonitrile</u>	<u>1.3</u>
<u>108-90-7</u>	<u>Chlorobenzene</u>	<u>150</u>
<u>74-97-5</u>	<u>Chlorobromomethane</u>	<u>3500</u>
<u>75-45-6</u>	<u>Chlorodifluoromethane</u>	<u>12000</u>
<u>76-15-3</u>	<u>Chloropentafluoroethane</u>	<u>21000</u>
<u>76-06-2</u>	<u>Chloropicrin</u>	<u>2.2</u>
<u>2039-87-4</u>	<u>o-Chlorostyrene</u>	<u>940</u>
<u>95-49-8</u>	<u>o-Chlorotoluene</u>	<u>860</u>
<u>2921-88-2</u>	<u>Chlorpyrifos</u>	<u>0.67</u>
<u>C7440-47-3</u>	<u>Chromium (II) compounds, as Cr</u>	<u>1.7</u>
<u>C7440-47-3</u>	<u>Chromium (III) compounds, Cr</u>	<u>1.7</u>
<u>7440-47-3</u>	<u>Chromium (metal)</u>	<u>1.7</u>
<u>14977-61-8</u>	<u>Chromyl chloride</u>	<u>0.53</u>
<u>2971-90-6</u>	<u>Clopidol</u>	<u>33</u>
<u>7440-48-4</u>	<u>Cobalt as Co metal Dust and fume</u>	<u>0.17</u>
<u>10210-68-1</u>	<u>Cobalt carbonyl as Co</u>	<u>0.33</u>
<u>16842-03-8</u>	<u>Cobalt hydrocarbonyl</u>	<u>0.33</u>
<u>C7440-50-8</u>	<u>Copper, Dusts and mists, as Cu</u>	<u>3.3</u>
<u>7440-50-8</u>	<u>Copper, Fume</u>	<u>0.67</u>
<u>---</u>	<u>Cotton dust, raw</u>	<u>0.67</u>
<u>1319-77-3</u>	<u>Cresol, all isomers</u>	<u>73</u>
<u>4170-30-3</u>	<u>Crotonaldehyde</u>	<u>20</u>
<u>299-86-5</u>	<u>Crufomate</u>	<u>17</u>
<u>98-82-2</u>	<u>Cumene</u>	<u>820</u>
<u>420-04-2</u>	<u>Cyanamide</u>	<u>6.7</u>
<u>51-12-5</u>	<u>Cyanides, as CN</u>	<u>17</u>
<u>460-19-5</u>	<u>Cyanogen</u>	<u>67</u>
<u>506-77-4</u>	<u>Cyanogen chloride</u>	<u>2.5</u>
<u>110-82-7</u>	<u>Cyclohexane</u>	<u>3400</u>
<u>108-93-0</u>	<u>Cyclohexanol</u>	<u>690</u>
<u>108-94-1</u>	<u>Cyclohexanone</u>	<u>330</u>
<u>110-83-8</u>	<u>Cyclohexene</u>	<u>3400</u>
<u>108-91-8</u>	<u>Cyclohexylamine</u>	<u>140</u>
<u>121-82-4</u>	<u>Cyclonite</u>	<u>5.0</u>
<u>542-92-7</u>	<u>Cyclopentadiene</u>	<u>680</u>
<u>287-92-3</u>	<u>Cyclopentane</u>	<u>5700</u>

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<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
<u>13121-70-5</u>	<u>Cyhexatin</u>	<u>17</u>
<u>17702-41-9</u>	<u>Decaborane</u>	<u>0.83</u>
<u>8065-48-3</u>	<u>Demeton</u>	<u>0.83</u>
<u>123-42-2</u>	<u>Diacetone alcohol</u>	<u>790</u>
<u>333-41-5</u>	<u>Diazinon</u>	<u>0.33</u>
<u>334-88-3</u>	<u>Diazomethane</u>	<u>1.1</u>
<u>19287-45-7</u>	<u>Diborane</u>	<u>0.37</u>
<u>96-12-8</u>	<u>1,2-Dibromo-3-chloropropane</u>	<u>0.20</u>
<u>107-66-4</u>	<u>Dibutyl phosphate</u>	<u>29</u>
<u>84-74-2</u>	<u>Dibutyl phthalate</u>	<u>17</u>
<u>102-81-8</u>	<u>2-N-Dibutylaminoethanol</u>	<u>47</u>
<u>594-72-9</u>	<u>1,1-Dichloro-1-nitroethane</u>	<u>40</u>
<u>118-52-5</u>	<u>1,3-Dichloro-5,5-Dimethyl hydantoin</u>	<u>0.67</u>
<u>7572-29-4</u>	<u>Dichloroacetylene</u>	<u>1.3</u>
<u>95-50-1</u>	<u>o-Dichlorobenzene (1,2-Dichlorobenzene)</u>	<u>1000</u>
<u>75-71-8</u>	<u>Dichlorodifluoromethane</u>	<u>16000</u>
<u>75-34-3</u>	<u>1,1-Dichloroethane</u>	<u>2700</u>
<u>540-59-0</u>	<u>1,2-Dichloroethylene</u>	<u>2600</u>
<u>75-43-4</u>	<u>Dichlorofluoromethane</u>	<u>130</u>
<u>542-75-6</u>	<u>Dichloropropene</u>	<u>20</u>
<u>75-99-0</u>	<u>2,2-Dichloropropionic acid</u>	<u>19</u>
<u>76-14-2</u>	<u>Dichlorotetrafluoroethane</u>	<u>23000</u>
<u>62-73-7</u>	<u>Dichlorvas</u>	<u>3.3</u>
<u>141-66-2</u>	<u>Dicrotophos</u>	<u>0.83</u>
<u>77-73-6</u>	<u>Dicyclopentadiene</u>	<u>100</u>
<u>102-54-5</u>	<u>Dicyclopentadienyl iron</u>	<u>33</u>
<u>111-42-2</u>	<u>Diethanolamine</u>	<u>43</u>
<u>96-22-0</u>	<u>Diethyl ketone</u>	<u>2300</u>
<u>84-66-2</u>	<u>Diethyl phthalate</u>	<u>17</u>
<u>64-67-5</u>	<u>Diethyl sulfate</u>	<u>==</u>
<u>109-89-7</u>	<u>Diethylamine</u>	<u>100</u>
<u>100-37-8</u>	<u>Diethylaminoethanol</u>	<u>170</u>
<u>111-40-0</u>	<u>Diethylene triamine</u>	<u>14</u>
<u>75-61-6</u>	<u>Difluorodibromomethane</u>	<u>2900</u>
<u>2238-07-5</u>	<u>Diglycidyl ether</u>	<u>1.7</u>
<u>108-83-8</u>	<u>Diisobutyl ketone</u>	<u>480</u>
<u>108-18-9</u>	<u>Diisopropylamine</u>	<u>67</u>
<u>127-19-5</u>	<u>Dimethyl acetamide</u>	<u>120</u>
<u>60-11-7</u>	<u>Dimethyl aminoazobenzene</u>	<u>==</u>
<u>79-44-7</u>	<u>Dimethyl carbamoyl chloride</u>	<u>==</u>
<u>124-40-3</u>	<u>Dimethylamine</u>	<u>60</u>
<u>121-69-7</u>	<u>Dimethylaniline</u>	<u>83</u>
<u>68-12-2</u>	<u>Dimethylformamide</u>	<u>30</u>
<u>57-14-7</u>	<u>1,1-Dimethylhydrazine</u>	<u>4.0</u>

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<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
<u>131-11-3</u>	<u>Dimethylphthalate</u>	<u>17</u>
<u>148-01-6</u>	<u>Dinitolmide</u>	<u>17</u>
<u>534-52-1</u>	<u>Dinitro-o-cresol</u>	<u>0.67</u>
<u>528-29-0</u>	<u>Dinitrobenzene, all isomers</u>	<u>3.3</u>
<u>51-28-5</u>	<u>2,4-Dinitrophenol</u>	<u>---</u>
<u>121-14-2</u>	<u>2,4-Dinitrotoluene</u>	<u>5.0</u>
<u>78-34-2</u>	<u>Dioxathion</u>	<u>0.67</u>
<u>122-39-4</u>	<u>Diphenylamine</u>	<u>33</u>
<u>123-19-3</u>	<u>Dipropyl ketone</u>	<u>780</u>
<u>34590-94-8</u>	<u>Dipropylene glycol methyl ether</u>	<u>2000</u>
<u>85-00-7</u>	<u>Diquat</u>	<u>1.7</u>
<u>97-77-8</u>	<u>Disulfiram</u>	<u>6.7</u>
<u>298-04-4</u>	<u>Disulfuton</u>	<u>0.33</u>
<u>128-37-0</u>	<u>2,6-Ditert. butyl-p-cresol</u>	<u>33</u>
<u>330-54-1</u>	<u>Diuron</u>	<u>33</u>
<u>1321-74-0</u>	<u>Divinyl benzene</u>	<u>180</u>
<u>2104-64-5</u>	<u>EPN</u>	<u>1.7</u>
<u>115-29-7</u>	<u>Endosulfan</u>	<u>0.33</u>
<u>72-20-8</u>	<u>Endrin</u>	<u>0.33</u>
<u>13838-16-9</u>	<u>Enflurane</u>	<u>1900</u>
<u>106-88-7</u>	<u>1,2-Epoxybutane</u>	<u>20</u>
<u>141-43-5</u>	<u>Ethanolamine</u>	<u>25</u>
<u>563-12-2</u>	<u>Ethion</u>	<u>1.3</u>
<u>110-80-5</u>	<u>2-Ethoxyethanol</u>	<u>200</u>
<u>111-15-9</u>	<u>2-Ethoxyethyl acetate</u>	<u>90</u>
<u>141-78-6</u>	<u>Ethyl acetate</u>	<u>4800</u>
<u>140-88-5</u>	<u>Ethyl acrylate</u>	<u>66</u>
<u>64-17-5</u>	<u>Ethyl alcohol</u>	<u>6300</u>
<u>541-85-5</u>	<u>Ethyl amyl ketone</u>	<u>440</u>
<u>100-41-4</u>	<u>Ethyl benzene</u>	<u>1000</u>
<u>74-96-4</u>	<u>Ethyl bromide</u>	<u>3000</u>
<u>106-35-4</u>	<u>Ethyl butyl ketone</u>	<u>780</u>
<u>51-79-5</u>	<u>Ethyl carbamate</u>	<u>---</u>
<u>75-00-3</u>	<u>Ethyl chloride</u>	<u>10000</u>
<u>60-29-7</u>	<u>Ethyl ether</u>	<u>4000</u>
<u>109-94-4</u>	<u>Ethyl formate</u>	<u>1000</u>
<u>75-08-1</u>	<u>Ethyl mercaptan</u>	<u>4.3</u>
<u>78-10-4</u>	<u>Ethyl silicate</u>	<u>280</u>
<u>75-04-7</u>	<u>Ethylamine</u>	<u>60</u>
<u>107-07-3</u>	<u>Ethylene chlorohydrin</u>	<u>11</u>
<u>107-15-3</u>	<u>Ethylene diamine</u>	<u>83</u>
<u>107-21-1</u>	<u>Ethylene glycol</u>	<u>420</u>
<u>628-96-6</u>	<u>Ethylene glycol dinitrate</u>	<u>1.0</u>
<u>151-56-4</u>	<u>Ethylenimine</u>	<u>2.9</u>

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
16219-75-3	<u>Ethylidene norbornene</u>	83
100-74-3	<u>N-Ethylmorpholine</u>	77
22224-92-6	<u>Fenamiphos</u>	0.33
115-90-2	<u>Fensulfothion</u>	0.33
55-38-9	<u>Fenthion</u>	0.67
14484-64-1	<u>Ferbam</u>	33
12604-58-9	<u>Ferrovandium dust</u>	3.3
==	<u>Fibrous glass dust</u>	33
==	<u>Fine mineral fibers</u>	33
16984-48-8	<u>Fluorides, as F</u>	8.3
7782-41-4	<u>Fluorine</u>	5.3
944-22-9	<u>Fonofos</u>	0.33
75-12-7	<u>Formamide</u>	60
64-18-6	<u>Formic acid</u>	31
98-01-1	<u>Furfural</u>	26
98-00-1	<u>Furfuryl alcohol</u>	130
7782-65-2	<u>Germanium tetrahydride</u>	2.1
111-30-8	<u>Glutaraldehyde</u>	2.5
556-52-5	<u>Glycidol</u>	250
==	<u>Glycol ethers</u>	==
7440-58-6	<u>Hafnium</u>	1.7
151-67-7	<u>Halothane</u>	1300
142-82-5	<u>Heptane (n-Heptane)</u>	5500
87-68-3	<u>Hexachlorobutadiene</u>	0.70
77-47-4	<u>Hexachlorocyclopentadiene</u>	0.33
67-72-1	<u>Hexachloroethane</u>	32
1335-87-1	<u>Hexachloronaphthalene</u>	0.67
684-16-2	<u>Hexafluoroacetone</u>	2.3
822-06-0	<u>Hexamethylene diisocyanate</u>	0.11
100-54-3	<u>Hexane (n-Hexane)</u>	200
==	<u>Hexane, other isomers</u>	5900
591-78-6	<u>2-Hexanone (MBK)</u>	67
108-84-9	<u>sec-Hexyl acetate</u>	980
107-41-5	<u>Hexylene glycol</u>	400
10035-10-6	<u>Hydrogen bromide</u>	33
7647-01-0	<u>Hydrogen chloride</u>	7.0
74-90-8	<u>Hydrogen cyanide</u>	37
7664-39-3	<u>Hydrogen fluoride, as F</u>	8.7
7722-84-1	<u>Hydrogen peroxide</u>	4.7
7783-07-5	<u>Hydrogen selenide, as Se</u>	0.53
7783-06-4	<u>Hydrogen sulfide</u>	0.9
123-31-9	<u>Hydroquinone</u>	6.7
999-61-1	<u>2-Hydroxypropyl acrylate</u>	9.3
95-13-6	<u>Indene</u>	160

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<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
<u>C7440-74-6</u>	<u>Indium, & compounds as In</u>	<u>0.33</u>
<u>7553-56-2</u>	<u>Iodine</u>	<u>3.3</u>
<u>75-47-8</u>	<u>Iodoform</u>	<u>33</u>
<u>1309-37-1</u>	<u>Iron oxide fume, Fe₂O₃ as Fe</u>	<u>17</u>
<u>13463-40-6</u>	<u>Iron pentacarbonyl, as Fe</u>	<u>0.83</u>
<u>---</u>	<u>Iron salts, soluble as Fe</u>	<u>3.3</u>
<u>123-92-2</u>	<u>Isoamyl acetate</u>	<u>1700</u>
<u>123-51-3</u>	<u>Isoamyl alcohol</u>	<u>1200</u>
<u>110-19-0</u>	<u>Isobutyl acetate</u>	<u>2400</u>
<u>78-83-1</u>	<u>Isobutyl alcohol</u>	<u>510</u>
<u>26952-21-6</u>	<u>Isocetyl alcohol</u>	<u>890</u>
<u>78-59-1</u>	<u>Isophorone</u>	<u>93</u>
<u>4098-71-9</u>	<u>Isophorone diisocyanate</u>	<u>0.15</u>
<u>109-59-1</u>	<u>Isopropoxyethanol</u>	<u>350</u>
<u>108-21-4</u>	<u>Isopropyl acetate</u>	<u>3500</u>
<u>67-63-0</u>	<u>Isopropyl alcohol</u>	<u>3300</u>
<u>108-20-3</u>	<u>Isopropyl ether</u>	<u>3500</u>
<u>4016-14-2</u>	<u>Isopropyl glycidyl ether (IGE)</u>	<u>790</u>
<u>75-31-0</u>	<u>Isopropylamine</u>	<u>40</u>
<u>768-52-5</u>	<u>N-Isopropylaniline</u>	<u>37</u>
<u>463-51-4</u>	<u>Ketene</u>	<u>2.9</u>
<u>3687-31-8</u>	<u>Lead arsenate, as Pb₃(As₂O₄)₂</u>	<u>0.50</u>
<u>7758-97-6</u>	<u>Lead chromate, as Cr</u>	<u>0.040</u>
<u>68476-85-7</u>	<u>Liquified petroleum gas</u>	<u>6000</u>
<u>7580-67-8</u>	<u>Lithium hydride</u>	<u>0.080</u>
<u>1309-48-4</u>	<u>Magnesium oxide fume</u>	<u>33</u>
<u>121-75-5</u>	<u>Malathion</u>	<u>33</u>
<u>108-31-6</u>	<u>Maleic anhydride</u>	<u>3.3</u>
<u>C7439-96-5</u>	<u>Manganese dust & compounds</u>	<u>0.40</u>
<u>C7439-96-5</u>	<u>Manganese fume</u>	<u>3.3</u>
<u>12079-65-1</u>	<u>Manganese cyclopentadienyl tricarbonyl</u>	<u>0.33</u>
<u>C7439-97-6</u>	<u>Mercury, Aryl & inorganic cmpd</u>	<u>0.33</u>
<u>C7439-97-6</u>	<u>Mercury, as Hg Alkyl compounds</u>	<u>0.33</u>
<u>C7439-97-6</u>	<u>Mercury, vapors except alkyl</u>	<u>0.17</u>
<u>141-79-7</u>	<u>Mesityl oxide</u>	<u>200</u>
<u>79-41-4</u>	<u>Methacrylic acid</u>	<u>230</u>
<u>16752-77-5</u>	<u>Methomyl</u>	<u>8.3</u>
<u>72-43-5</u>	<u>Methoxychlor</u>	<u>33</u>
<u>109-86-4</u>	<u>2-Methoxyethanol</u>	<u>20</u>
<u>110-49-6</u>	<u>2-Methoxyethyl acetate</u>	<u>80</u>
<u>150-76-5</u>	<u>4-Methoxyphenol</u>	<u>17</u>
<u>137-05-3</u>	<u>Methyl 2-cyanoacrylate</u>	<u>30</u>
<u>79-20-9</u>	<u>Methyl acetate</u>	<u>2000</u>

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<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
74-99-7	<u>Methyl acetylene</u>	5500
59355-75-8	<u>Methyl acetylene-propadiene mixture (MAPP)</u>	5500
96-33-3	<u>Methyl acrylate</u>	120
67-56-1	<u>Methyl alcohol</u>	870
100-61-8	<u>N-Methyl aniline</u>	7.3
74-83-9	<u>Methyl bromide</u>	5.0
74-87-3	<u>Methyl chloride</u>	340
71-55-6	<u>Methyl chloroform (1,1,1-Trichloroethane)</u>	6400
8022-00-2	<u>Methyl demeton</u>	1.7
78-93-3	<u>Methyl ethyl ketone (MEK)</u>	1000
1338-23-4	<u>Methyl ethyl ketone peroxide</u>	5.0
107-31-3	<u>Methyl formate</u>	820
60-34-4	<u>Methyl hydrazine</u>	1.2
74-88-4	<u>Methyl iodide</u>	40
110-12-3	<u>Methyl isoamyl ketone</u>	780
108-11-2	<u>Methyl isobutyl carbinol</u>	350
108-10-1	<u>Methyl isobutyl ketone (MIBK)</u>	680
624-83-9	<u>Methyl isocyanate</u>	0.16
563-80-4	<u>Methyl isopropyl ketone</u>	2300
74-93-1	<u>Methyl mercaptan</u>	3.3
80-62-6	<u>Methyl methacrylate</u>	1400
110-43-0	<u>Methyl n-amyl ketone</u>	780
591-78-6	<u>Methyl n-butyl ketone</u>	67
298-00-0	<u>Methyl parathion</u>	0.67
107-87-9	<u>Methyl propyl ketone</u>	2300
681-84-5	<u>Methyl silicate</u>	20
1634-04-4	<u>Methyl tert-butyl ether</u>	500
98-83-9	<u>a-Methyl styrene</u>	810
126-98-7	<u>Methylacrylonitrile 9.0</u>	9.0
109-87-5	<u>Methylal</u>	10000
74-89-5	<u>Methylamine</u>	43
108-87-2	<u>Methylcyclohexane</u>	5400
25639-42-3	<u>Methylcyclohexanol</u>	780
583-60-8	<u>o-Methylcyclohexanone</u>	760
12108-13-3	<u>Methylcyclopentadienyl manganese tricarbonyl</u>	0.67
5124-30-1	<u>Methylene bis (4-cyclo-hexylisocyanate)</u>	0.18
101-68-8	<u>Methylene bis(phenyl isocyanate)</u>	0.2
21087-64-9	<u>Metribuzin</u>	17
7786-34-7	<u>Mevinphos</u>	0.33
C7439-98-7	<u>Molybdenum, as Mo soluble cpds</u>	17
C7439-98-7	<u>Molybdenum, insoluble cpds</u>	33
6923-22-4	<u>Monocrotophos</u>	0.83
110-91-8	<u>Morpholine</u>	240
300-76-5	<u>Naled</u>	10

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<u>91-20-3</u>	<u>Napthalene</u>	170
<u>54-11-5</u>	<u>Nicotine</u>	1.7
<u>1929-82-4</u>	<u>Nitrapyrin</u>	33
<u>7697-37-2</u>	<u>Nitric acid</u>	17
<u>10102-43-9</u>	<u>Nitric oxide</u>	100
<u>100-01-6</u>	<u>p-Nitroaniline</u>	10
<u>98-95-3</u>	<u>Nitrobenzene</u>	1.7
<u>100-00-5</u>	<u>p-Nitrochlorobenzene</u>	2.0
<u>79-24-3</u>	<u>Nitroethane</u>	1000
<u>7783-54-2</u>	<u>Nitrogen trifluoride</u>	97
<u>92-93-3</u>	<u>4-Nitrobiphenyl</u>	==
<u>55-63-0</u>	<u>Nitroglycerin</u>	1.5
<u>75-52-5</u>	<u>Nitromethane</u>	830
<u>100-02-7</u>	<u>4-Nitrophenol</u>	==
<u>108-03-2</u>	<u>1-Nitropropane</u>	20
<u>684-93-5</u>	<u>N-Nitroso-N-methylurea</u>	==
<u>88-72-2</u>	<u>Nitrotoluene</u>	37
<u>111-84-2</u>	<u>Nonane</u>	3500
<u>2234-13-1</u>	<u>Octachloronaphthalene</u>	0.33
<u>111-65-9</u>	<u>Octane</u>	4700
<u>8012-95-1</u>	<u>Oil mist, mineral</u>	17
<u>20816-12-0</u>	<u>Osmium tetroxide, as Os</u>	0.0053
<u>144-62-7</u>	<u>Oxalic acid</u>	3.3
<u>7783-41-7</u>	<u>Oxygen difluoride</u>	0.37
<u>8002-74-2</u>	<u>Parafin wax fume</u>	6.7
<u>4685-14-7</u>	<u>Paraquat</u>	4.5
<u>56-38-2</u>	<u>Parathion</u>	0.33
<u>19624-22-7</u>	<u>Pentaborane</u>	0.043
<u>1321-64-8</u>	<u>Pentachloronaphthalene</u>	1.7
<u>82-68-8</u>	<u>Pentachloronitrobenzene (quintobenzene)</u>	1.7
<u>109-66-0</u>	<u>Pentane</u>	6000
<u>594-42-3</u>	<u>Perchloromethyl mercaptan</u>	2.5
<u>7616-94-6</u>	<u>Perchloryl fluoride</u>	43
<u>108-95-2</u>	<u>Phenol</u>	63
<u>92-84-2</u>	<u>Phenothiazine</u>	1.7
<u>101-84-8</u>	<u>Phenyl ether</u>	23
<u>122-60-1</u>	<u>Phenyl glycidyl ether</u>	2000
<u>108-98-5</u>	<u>Phenyl mercaptan</u>	7.7
<u>106-50-3</u>	<u>p-Phenylenediamine</u>	0.33
<u>100-63-0</u>	<u>Phenylhydrazine</u>	1.5
<u>638-21-1</u>	<u>Phenylphosphine</u>	0.77
<u>298-02-2</u>	<u>Phorate</u>	0.17
<u>75-44-5</u>	<u>Phosgene</u>	1.3
<u>7803-51-2</u>	<u>Phosphine</u>	1.3

PROPOSED

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
7664-38-2	<u>Phosphoric acid</u>	3.3
7723-14-0	<u>Phosphorus</u>	0.33
10025-87-3	<u>Phosphorus oxychloride</u>	2.1
10026-13-8	<u>Phosphorus pentachloride</u>	2.8
1314-80-3	<u>Phosphorus pentasulfide</u>	3.3
7719-12-2	<u>Phosphorus trichloride</u>	3.7
85-44-9	<u>Phthalic anhydride</u>	20
626-17-5	<u>m-Phthalodinitrile</u>	17
1918-02-1	<u>Picloram</u>	33
88-89-1	<u>Picric acid</u>	0.33
83-26-1	<u>Pindone</u>	0.033
142-64-3	<u>Piperazine dihydrochloride</u>	17
7440-06-4	<u>Platinum, Metal</u>	3.3
C7440-06-4	<u>Platinum, Soluble salts as Pt</u>	0.0067
1310-58-3	<u>Potassium hydroxide</u>	6.7
107-19-7	<u>Propargyl alcohol</u>	7.7
57-57-8	<u>B-Propiolactone</u>	5.0
123-38-6	<u>Propionaldehyde</u>	---
114-26-1	<u>Propoxur</u>	1.7
79-09-4	<u>Propionic acid</u>	100
109-60-4	<u>n-Propyl acetate</u>	2800
71-23-8	<u>n-Propyl alcohol</u>	1600
627-13-4	<u>n-Propyl nitrate</u>	360
6423-43-4	<u>Propylene glycol dinitrate</u>	1.1
107-98-2	<u>Propylene glycol monomethyl ether</u>	2000
75-55-8	<u>Propylene imine</u>	16
8003-34-7	<u>Pyrethrum</u>	1.7
110-86-1	<u>Pyridine</u>	53
91-22-5	<u>Quinoline</u>	---
106-51-4	<u>Quinone</u>	1.5
108-46-3	<u>Resorcinol</u>	150
7440-16-6	<u>Rhodium Metal</u>	3.3
C7440-16-6	<u>Rhodium, Insoluble compounds</u>	3.3
C7440-16-6	<u>Rhodium, Soluble compounds</u>	0.033
299-84-3	<u>Ronnel</u>	33
83-79-4	<u>Rotenone</u>	17
---	<u>Rubber solvent (Naphtha)</u>	5300
C7782-49-2	<u>Selenium compounds, as Se</u>	0.67
7783-79-1	<u>Selenium hexafluoride, as Se</u>	0.53
136-78-7	<u>Sesone</u>	33
7803-62-5	<u>Silicon tetrahydride</u>	22
7440-22-4	<u>Silver, Metal</u>	0.33
C7440-22-4	<u>Silver, soluble compounds as Ag</u>	0.033
26628-22-8	<u>Sodium azide</u>	1.0

PROPOSED

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
<u>7631-90-5</u>	<u>Sodium bisulfite</u>	<u>17</u>
<u>62-74-8</u>	<u>Sodium fluoroacetate</u>	<u>0.17</u>
<u>1310-73-2</u>	<u>Sodium hydroxide</u>	<u>6.7</u>
<u>7681-57-4</u>	<u>Sodium metabisulfite</u>	<u>17</u>
<u>7803-52-3</u>	<u>Stibine</u>	<u>1.7</u>
<u>57-24-9</u>	<u>Strychnine</u>	<u>0.5</u>
<u>100-42-5</u>	<u>Styrene</u>	<u>1000</u>
<u>96-9-3</u>	<u>Styrene oxide</u>	<u>---</u>
<u>1395-21-7</u>	<u>Subtilisins</u>	<u>0.0002</u>
<u>3689-24-5</u>	<u>Sulfotep</u>	<u>0.67</u>
<u>2551-62-4</u>	<u>Sulfur hexafluoride</u>	<u>20000</u>
<u>10025-67-9</u>	<u>Sulfur monochloride</u>	<u>18</u>
<u>5714-22-7</u>	<u>Sulfur pentafluoride</u>	<u>0.33</u>
<u>7783-60-0</u>	<u>Sulfur tetrafluoride</u>	<u>1.5</u>
<u>7664-93-9</u>	<u>Sulfuric acid</u>	<u>3.3</u>
<u>2699-79-8</u>	<u>Sulfuryl fluoride</u>	<u>67</u>
<u>35400-43-2</u>	<u>Sulprofos</u>	<u>3.3</u>
<u>93-76-5</u>	<u>2,4,5-T</u>	<u>33</u>
<u>107-49-3</u>	<u>TEPP</u>	<u>0.16</u>
<u>C7440-25-7</u>	<u>Tantalum, metal & oxide dusts</u>	<u>17</u>
<u>C13494-80-9</u>	<u>Tellurium & compounds as Te</u>	<u>0.33</u>
<u>7783-80-4</u>	<u>Tellurium hexafluoride, as Te</u>	<u>0.33</u>
<u>3383-96-8</u>	<u>Temephos</u>	<u>33</u>
<u>26140-60-3</u>	<u>Terphenyls</u>	<u>16</u>
<u>76-12-0</u>	<u>1,1,2,2-Tetrachloro-1,2-difluoroethane</u>	<u>14000</u>
<u>76-11-9</u>	<u>1,1,1,2-Tetrachloro-2,2-difluoroethane</u>	<u>14000</u>
<u>79-34-5</u>	<u>1,1,2,2-Tetrachloroethane</u>	<u>23</u>
<u>1335-88-2</u>	<u>Tetrachloronaphthalene</u>	<u>6.7</u>
<u>78-00-2</u>	<u>Tetraethyl lead, as Pb</u>	<u>0.33</u>
<u>109-99-9</u>	<u>Tetrahydrofuran</u>	<u>2000</u>
<u>75-74-1</u>	<u>Tetramethyl lead, as Pb</u>	<u>0.5</u>
<u>3333-52-6</u>	<u>Tetramethyl succinonitrile</u>	<u>9.3</u>
<u>509-14-8</u>	<u>Tetranitromethane</u>	<u>27</u>
<u>7722-88-5</u>	<u>Tetrasodium pyrophosphate</u>	<u>17</u>
<u>479-45-8</u>	<u>Tetryl</u>	<u>5.0</u>
<u>C7440-28-0</u>	<u>Thallium, soluble compounds, Tl</u>	<u>0.33</u>
<u>96-69-5</u>	<u>4,4-Thiobis(6-tert. butyl-m-cresol)</u>	<u>33</u>
<u>68-11-1</u>	<u>Thioglycolic acid</u>	<u>13</u>
<u>7719-09-7</u>	<u>Thionyl chloride</u>	<u>16</u>
<u>137-26-8</u>	<u>Thiram</u>	<u>3.3</u>
<u>7440-31-5</u>	<u>Tin, Metal</u>	<u>6.7</u>
<u>C7440-31-5</u>	<u>Tin, Organic compounds, as Sn</u>	<u>0.33</u>
<u>7440-31-5</u>	<u>Tin, oxide & inorganic except SnH₄</u>	<u>6.7</u>

PROPOSED

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL</u> <u>µg/m³</u> <u>24 Hr.</u> <u>Average</u>
7550-45-0	<u>Titanium tetrachloride</u>	400
108-88-3	<u>Toluene</u>	29
108-44-1	<u>m-Toluidine</u>	29
106-49-0	<u>p-Toluidine</u>	7.3
126-73-8	<u>Tributyl phosphate</u>	27000
76-13-1	<u>1,1,2-Trichloro-1,2,2-trifluoroethane</u>	22
76-03-9	<u>Trichloroacetic acid</u>	120
120-82-1	<u>1,2,4-Trichlorobenzene</u>	180
79-00-5	<u>1,1,2-Trichloroethane</u>	19000
75-69-4	<u>Trichlorofluoromethane</u>	17
1321-65-9	<u>Trichloronaphthalene</u>	17
95-95-4	<u>2,4,5-Trichlorophenol</u>	200
96-18-4	<u>1,2,3-Trichloropropane</u>	7.0
121-44-8	<u>Triethylamine</u>	20000
75-63-8	<u>Trifluorobromomethane</u>	0.13
1582-09-8	<u>Trifluralin</u>	420
552-30-7	<u>Trimellitic anhydride</u>	33
2551-13-7	<u>Trimethyl benzene</u>	80
540-84-1	<u>2,2,4-Trimethylpentane</u>	1.7
121-45-9	<u>Trimethyl phosphite</u>	0.33
75-50-3	<u>Trimethylamine</u>	17
118-96-7	<u>2,4,6-Trinitrotoluene</u>	10
78-30-8	<u>Triorthocresyl phosphate</u>	17
603-34-9	<u>Triphenyl amine</u>	17
115-86-6	<u>Triphenyl phosphate</u>	3.3
C7440-33-7	<u>Tungsten, Insoluble compounds</u>	1900
C7440-33-7	<u>Tungsten, Soluble compounds</u>	0.67
8006-64-2	<u>Turpentine</u>	4600
C7440-61-1	<u>Uranium, insoluble & soluble</u>	590
8032-32-4	<u>VM & P Naphtha</u>	0.17
110-62-3	<u>n-Valeraldehyde</u>	200
1314-62-1	<u>Vanadium, as V₂O₅</u>	73
108-05-4	<u>Vinyl acetate</u>	200
593-60-2	<u>Vinyl bromide</u>	67
106-87-6	<u>Vinyl cyclohexene dioxide</u>	800
75-35-4	<u>Vinylidene chloride</u>	0.33
25013-15-4	<u>Vinyl toluene</u>	17
81-81-2	<u>Warfarin</u>	0.33
1477-55-0	<u>Welding fumes</u>	1500
1330-20-7	<u>m-Xylene a,a'-diamine</u>	8.3
1300-73-8	<u>Xylenes (m-,o-,p-isomers)</u>	3.3
C7440-65-5	<u>Xylidine</u>	3.3
	<u>Yttrium, metal and cpds as Y</u>	

PROPOSED

<u>Chemical Abstract Service Number</u>	<u>Substance</u>	<u>ASIL µg/m³ 24 Hr. Average</u>
<u>7646-85-7</u>	<u>Zinc chloride fume</u>	<u>3.3</u>
<u>13530-65-9</u>	<u>Zinc chromates</u>	<u>0.033</u>
<u>1314-13-2</u>	<u>Zinc oxide, fume</u>	<u>17</u>
<u>C7440-67-7</u>	<u>Zirconium compounds, as Zr</u>	<u>17</u>

APPENDIX L
Hazardous Air Pollutants

This appendix contains a list of the hazardous air pollutants (HAP) created by FCAA, Section 112.

<u>Chemical Abstract Service Number</u>	<u>Chemical Name</u>	<u>Comments</u>
<u>75070</u>	<u>Acetaldehyde</u>	
<u>60355</u>	<u>Acetamide</u>	
<u>75058</u>	<u>Acetonitrile</u>	
<u>98862</u>	<u>Acetophenone</u>	
<u>53963</u>	<u>2-Acetylaminofluorene</u>	
<u>107028</u>	<u>Acrolein</u>	
<u>79061</u>	<u>Acrylamide</u>	
<u>79107</u>	<u>Acrylic acid</u>	
<u>107131</u>	<u>Acrylonitrile</u>	
<u>107051</u>	<u>Allyl chloride</u>	
<u>92671</u>	<u>4-Aminobiphenyl</u>	
<u>62533</u>	<u>Aniline</u>	
<u>90040</u>	<u>o-Anisidine</u>	
<u>1332214</u>	<u>Asbestos</u>	
<u>71432</u>	<u>Benzene (including benzene from gasoline)</u>	
<u>92875</u>	<u>Benzidine</u>	
<u>98077</u>	<u>Benzotrichloride</u>	
<u>100447</u>	<u>Benzyl chloride</u>	
<u>92524</u>	<u>Biphenyl</u>	
<u>117817</u>	<u>Bis(2-ethylhexyl)phthalate (DEHP)</u>	
<u>542881</u>	<u>Bis(chloromethyl)ether</u>	
<u>75252</u>	<u>Bromoform</u>	
<u>106990</u>	<u>1,3-Butadiene</u>	
<u>156627</u>	<u>Calcium cyanamide</u>	
<u>105602</u>	<u>Caprolactam</u>	<u>EPA delisted June 18, 1996.</u>
<u>133062</u>	<u>Captan</u>	
<u>63252</u>	<u>Carbaryl</u>	
<u>75150</u>	<u>Carbon disulfide</u>	
<u>56235</u>	<u>Carbon tetrachloride</u>	
<u>463581</u>	<u>Carbonyl sulfide</u>	
<u>120809</u>	<u>Catechol</u>	
<u>133904</u>	<u>Chloramben</u>	
<u>57749</u>	<u>Chlordane</u>	

**Chemical Abstract
Service Number****Chemical Name****Comments**

<u>7782505</u>	<u>Chlorine</u>	
<u>79118</u>	<u>Chloroacetic acid</u>	
<u>532274</u>	<u>2-Chloroacetophenone</u>	
<u>108907</u>	<u>Chlorobenzene</u>	
<u>510156</u>	<u>Chlorobenzilate</u>	
<u>67663</u>	<u>Chloroform</u>	
<u>107302</u>	<u>Chloromethyl methyl ether</u>	
<u>126998</u>	<u>Chloroprene</u>	
<u>1319773</u>	<u>Cresols/Cresylic acid (isomers and mixture)</u>	
<u>95487</u>	<u>o-Cresol</u>	
<u>108394</u>	<u>m-Cresol</u>	
<u>106445</u>	<u>p-Cresol</u>	
<u>98828</u>	<u>Cumene</u>	
<u>94757</u>	<u>2,4-D, salts and esters</u>	
<u>3547044</u>	<u>DDE</u>	
<u>334883</u>	<u>Diazomethane</u>	
<u>132649</u>	<u>Dibenzofurans</u>	
<u>96128</u>	<u>1,2-Dibromo-3-chloropropane</u>	
<u>84742</u>	<u>Dibutylphthalate</u>	
<u>106467</u>	<u>1,4-Dichlorobenzene(p)</u>	
<u>91941</u>	<u>3,3-Dichlorobenzidine</u>	
<u>111444</u>	<u>Dichloroethyl ether (Bis(2-chloroethyl)ether)</u>	
<u>542756</u>	<u>1,3-Dichloropropene</u>	
<u>62737</u>	<u>Dichlorvos</u>	
<u>111422</u>	<u>Diethanolamine</u>	
<u>121697</u>	<u>N,N-Diethyl aniline (N,N-Dimethylaniline)</u>	
<u>64675</u>	<u>Diethyl sulfate</u>	
<u>119904</u>	<u>3,3-Dimethoxybenzidine</u>	
<u>60117</u>	<u>Dimethyl aminoazobenzene</u>	
<u>119937</u>	<u>3,3'-Dimethyl benzidine</u>	
<u>79447</u>	<u>Dimethyl carbamoyl chloride</u>	
<u>68122</u>	<u>Dimethyl formamide</u>	
<u>57147</u>	<u>1,1-Dimethyl hydrazine</u>	
<u>131113</u>	<u>Dimethyl phthalate</u>	
<u>77781</u>	<u>Dimethyl sulfate</u>	
<u>534521</u>	<u>4,6-Dinitro-o-cresol, and salts</u>	
<u>51285</u>	<u>2,4-Dinitrophenol</u>	
<u>121142</u>	<u>2,4-Dinitrotoluene</u>	
<u>123911</u>	<u>1,4-Dioxane (1,4-Diethyleneoxide)</u>	
<u>122667</u>	<u>1,2-Diphenylhydrazine</u>	
<u>106898</u>	<u>Epichlorohydrin (1-Chloro-2,3-epoxypropane)</u>	
<u>106887</u>	<u>1,2-Epoxybutane</u>	
<u>140885</u>	<u>Ethyl acrylate</u>	
<u>100414</u>	<u>Ethyl benzene</u>	
<u>51796</u>	<u>Ethyl carbamate (Urethane)</u>	

PROPOSED

<u>Chemical Abstract Service Number</u>	<u>Chemical Name</u>	<u>Comments</u>
<u>75003</u>	<u>Ethyl chloride (Chloroethane)</u>	
<u>106934</u>	<u>Ethylene dibromide (Dibromoethane)</u>	
<u>107062</u>	<u>Ethylene dichloride (1,2-Dichloroethane)</u>	
<u>107211</u>	<u>Ethylene glycol</u>	
<u>151564</u>	<u>Ethylene imine (Aziridine)</u>	
<u>75218</u>	<u>Ethylene oxide</u>	
<u>96457</u>	<u>Ethylene thiourea</u>	
<u>75343</u>	<u>Ethylidene dichloride (1,1-Dichloroethane)</u>	
<u>50000</u>	<u>Formaldehyde</u>	
<u>76448</u>	<u>Heptachlor</u>	
<u>118741</u>	<u>Hexachlorobenzene</u>	
<u>87683</u>	<u>Hexachlorobutadiene</u>	
<u>77474</u>	<u>Hexachlorocyclopentadiene</u>	
<u>67721</u>	<u>Hexachloroethane</u>	
<u>822060</u>	<u>Hexamethylene-1,6-diisocyanate</u>	
<u>680319</u>	<u>Hexamethylphosphoramide</u>	
<u>110543</u>	<u>Hexane</u>	
<u>302012</u>	<u>Hydrazine</u>	
<u>7647010</u>	<u>Hydrochloric acid</u>	
<u>7664393</u>	<u>Hydrogen fluoride (Hydrofluoric acid)</u>	
<u>7783064</u>	<u>Hydrogen sulfide</u>	<u>Included in error and removed on Dec. 4, 1991.</u>
<u>123319</u>	<u>Hydroquinone</u>	
<u>78591</u>	<u>Isophorone</u>	
<u>58899</u>	<u>Lindane (all isomers)</u>	
<u>108316</u>	<u>Maleic anhydride</u>	
<u>67561</u>	<u>Methanol</u>	
<u>72435</u>	<u>Methoxychlor</u>	
<u>74839</u>	<u>Methyl bromide (Bromomethane)</u>	
<u>74873</u>	<u>Methyl chloride (Chloromethane)</u>	
<u>71556</u>	<u>Methyl chloroform (1,1,1-Trichloroethane)</u>	
<u>78933</u>	<u>Methyl ethyl ketone (2-Butanone)</u>	
<u>60344</u>	<u>Methyl hydrazine</u>	
<u>74884</u>	<u>Methyl iodide (Iodomethane)</u>	
<u>108101</u>	<u>Methyl isobutyl ketone (Hexone)</u>	
<u>624839</u>	<u>Methyl isocyanate</u>	
<u>80626</u>	<u>Methyl methacrylate</u>	
<u>1634044</u>	<u>Methyl tert butyl ether</u>	
<u>101144</u>	<u>4,4-Methylene bis(2-chloroaniline)</u>	
<u>75092</u>	<u>Methylene chloride (Dichloromethane)</u>	
<u>101688</u>	<u>Methylene diphenyl diisocyanate (MDI)</u>	
<u>101779</u>	<u>4,4'-Methylenedianiline</u>	
<u>91203</u>	<u>Naphthalene</u>	
<u>98953</u>	<u>Nitrobenzene</u>	
<u>92933</u>	<u>4-Nitrobiphenyl</u>	
<u>100027</u>	<u>4-Nitrophenol</u>	

**Chemical Abstract
Service Number****Chemical Name****Comments**

<u>79469</u>	<u>2-Nitropropane</u>	
<u>684935</u>	<u>N-Nitroso-N-methylurea</u>	
<u>62759</u>	<u>N-Nitrosodimethylamine</u>	
<u>59892</u>	<u>N-Nitrosomorpholine</u>	
<u>56382</u>	<u>Parathion</u>	
<u>82688</u>	<u>Pentachloronitrobenzene (Quintobenzene)</u>	
<u>87865</u>	<u>Pentachlorophenol</u>	
<u>108952</u>	<u>Phenol</u>	
<u>106503</u>	<u>p-Phenylenediamine</u>	
<u>75445</u>	<u>Phosgene</u>	
<u>7803512</u>	<u>Phosphine</u>	
<u>7723140</u>	<u>Phosphorus</u>	
<u>85449</u>	<u>Phthalic anhydride</u>	
<u>1336363</u>	<u>Polychlorinated biphenyls (Aroclors)</u>	
<u>1120714</u>	<u>1,3-Propane sultone</u>	
<u>57578</u>	<u>beta-Propiolactone</u>	
<u>123386</u>	<u>Propionaldehyde</u>	
<u>114261</u>	<u>Propoxur (Baygon)</u>	
<u>78875</u>	<u>Propylene dichloride (1,2-Dichloropropane)</u>	
<u>75569</u>	<u>Propylene oxide</u>	
<u>75558</u>	<u>1,2-Propylenimine (2-Methyl aziridine)</u>	
<u>91225</u>	<u>Quinoline</u>	
<u>106514</u>	<u>Quinone</u>	
<u>100425</u>	<u>Styrene</u>	
<u>96093</u>	<u>Styrene oxide</u>	
<u>1746016</u>	<u>2,3,7,8-Tetrachlorodibenzo-p-dioxin</u>	
<u>79345</u>	<u>1,1,2,2-Tetrachloroethane</u>	
<u>127184</u>	<u>Tetrachloroethylene (Perchloroethylene)</u>	
<u>7550450</u>	<u>Titanium tetrachloride</u>	
<u>108883</u>	<u>Toluene</u>	
<u>95807</u>	<u>2,4-Toluene diamine</u>	
<u>584849</u>	<u>2,4-Toluene diisocyanate</u>	
<u>95534</u>	<u>o-Toluidine</u>	
<u>8001352</u>	<u>Toxaphene (chlorinated camphene)</u>	
<u>120821</u>	<u>1,2,4-Trichlorobenzene</u>	
<u>79005</u>	<u>1,1,2-Trichloroethane</u>	
<u>79016</u>	<u>Trichloroethylene</u>	
<u>95954</u>	<u>2,4,5-Trichlorophenol</u>	
<u>88062</u>	<u>2,4,6-Trichlorophenol</u>	
<u>121448</u>	<u>Triethylamine</u>	
<u>1582098</u>	<u>Trifluralin</u>	
<u>540841</u>	<u>2,2,4-Trimethylpentane</u>	
<u>108054</u>	<u>Vinyl acetate</u>	
<u>593602</u>	<u>Vinyl bromide</u>	
<u>75014</u>	<u>Vinyl chloride</u>	

PROPOSED

**Chemical Abstract
Service Number**

Chemical Name

Comments

75354

Vinylidene chloride (1,1-Dichloroethylene)

1330207

Xylenes (isomers and mixture)

95476

o-Xylenes

108383

m-Xylenes

10642

p-Xylenes

0

Antimony Compounds

0

Arsenic Compounds (inorganic including arsine)

0

Beryllium Compounds

0

Cadmium Compounds

0

Chromium Compounds

0

Cobalt Compounds

0

Coke Oven Emissions

0

Cyanide Compounds¹

0

Glycol ethers²

0

Lead Compounds

0

Manganese Compounds

0

Mercury Compounds

0

Fine mineral fibers³

0

Nickel Compounds

0

Polycyclic Organic Matter⁴

0

Radionuclides (including radon)⁵

0

Selenium Compounds

PROPOSED

Reviser's note: The typographical errors in the above material occurred in the copy filed by the Yakima Regional Clean Air Authority and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The spelling 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.

Statute Being Implemented: RCW 70.94.141.
Summary: To delete Section 3.07 of Regulation II; and to clarify the chemical list in Appendix A of Regulation III.

Reasons Supporting Proposal: Any new dry cleaning system must meet all Notice of Construction requirements, including using best available control technology so Section 3.07 of Regulation II is no longer needed. Emission reporting and annual fee payment require clarity in the chemical list in Appendix A.

Name of Agency Personnel Responsible for Drafting: John Anderson, 110 Union Street #500, Seattle, WA 98101, (206) 689-4051; Implementation: Dave Kircher, 110 Union Street #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Neal Shulman, 110 Union Street #500, Seattle, WA 98101, (206) 689-4078.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: For Section 3.07, Regulation II: This proposal deletes this section, since there are no longer any petroleum solvent dry cleaning systems in our jurisdiction that use more than 15,000 gallons, and any new dry cleaning system must

**WSR 00-03-082
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY**
[Filed January 19, 2000, 10:16 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule: Delete Regulation II, Section 3.07; and amend Regulation III, Appendix A.

Purpose: To delete Section 3.07 since there are no longer any petroleum solvent dry cleaning systems in our jurisdiction that use more than 15,000 gallons. To clarify the list of chemicals in Appendix A and their EPA hazardous air pollutant (HAP) list designations.

Other Identifying Information: Section 3.07 - Petroleum Solvent Dry Cleaning Systems. Appendix A - Acceptable Source Impact Levels.

Statutory Authority for Adoption: Chapter 70.94 RCW.

meet all Notice of Construction requirements, including using best available control technology.

For Appendix A, Regulation III: Reporting requirements and annual fees depend on the use of Regulation III, Appendix A "Acceptable Source Impact Levels," a list of toxic air contaminants. These proposed changes clarify the list of chemicals and their EPA hazardous air pollutant (HAP) list designations including:

- (1) A separate column has been added for synonyms,
- (2) HAP compound references are italicized as well as placed in square brackets, and
- (3) Parenthetical synonyms that were previously omitted from the alphabetical list have been added with their parentheses removed.

Proposal Changes the Following Existing Rules: This proposal deletes Section 3.07 of Regulation II; and clarifies the list of chemicals in Appendix A of Regulation III and their EPA hazardous air pollutant list designations.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: PSCAA Offices, 110 Union Street, #500, Seattle, WA 98101, on March 9, 2000, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by March 2, 2000, TDD (800) 833-6388, or (800) 833-6385 (Braille).

Submit Written Comments to: Dennis McLerran, PSCAA, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by February 28, 2000.

Date of Intended Adoption: March 9, 2000.

January 18, 2000

David S. Kircher

Manager - Engineering

REPEALER

REGULATION II SECTION 3.07 PETROLEUM SOLVENT DRY CLEANING SYSTEMS

AMENDATORY SECTION

REGULATION III APPENDIX A

ACCEPTABLE SOURCE IMPACT LEVELS

((**COMPOUND**))
CHEMICAL NAME

SYNONYM

CAS
((CODE)) #

ASIL
µg/m³

TYPE

((COMPOUND)) CHEMICAL NAME	SYNONYM	CAS ((CODE)) #	ASIL µg/m³	TYPE
ANTU		86-88-4	1.0	B
√Acetaldehyde		75-07-0	0.45	A
√Acetamide		60-35-5	TBD	B
Acetic acid		64-19-7	83	B
Acetic anhydride		108-24-7	67	B
Acetone		67-64-1	5900	B
√Acetonitrile		75-05-8	220	B
√Acetophenone		98-86-2	TBD	B
√2-Acetylaminofluorene		53-96-3	TBD	A
Acetylene tetrabromide		79-27-6	47	B
√Acrolein		107-02-8	0.02	B
√Acrylamide		79-06-1	0.00077	A
√Acrylic acid		79-10-7	0.30	B
√Acrylonitrile		107-13-1	0.015	A
Aldrin		309-00-2	0.0002	A
Allyl alcohol		107-18-6	17	B
√Allyl chloride		107-05-1	1.0	B
Allyl glycidyl ether	((Ⓢ)AGE(Ⓢ))	106-92-3	77	B
Allyl propyl disulfide		2179-59-1	40.0	B
Aluminum, Al alkyls		7429-90-5	6.7	B
Aluminum, as Al metal dusts		7429-90-5	33	B
Aluminum, as Al pyro powders		7429-90-5	17	B
Aluminum, as Al soluble salts		7429-90-5	6.7	B
Aluminum, as Al welding fumes		7429-90-5	17	B
2-Aminoanthraquinone		117-79-3	TBD	A
o-Aminoazotoluene		97-56-3	TBD	A
√4-Aminobiphenyl		92-67-1	TBD	A
2-Aminopyridine		504-29-0	6.3	B

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PROPOSED

Amitrole		61-82-5	0.06	C
Ammonia		7664-41-7	100	B
Ammonium chloride fumes		12125-02-9	33	B
Ammonium perfluorooctanoate		3825-26-1	0.33	B
Ammonium sulfamate		7773-06-0	33	B
n-Amyl acetate		628-63-7	1800	B
sec-Amyl acetate		626-38-0	2200	B
√Aniline		62-53-3	6.3	A
√ Aniline and homologues		62-53-3	1.0	B
Anisidine (o-,p- isomers)		29191-52-4	1.7	B
√ o-Anisidine		90-04-0	1.7	C
√ Antimony & compounds, as Sb		7440-36-0	1.7	B
√ Antimony trioxide, as Sb ((f))[antimony compound](g))		1309-64-4	1.7	B
√Arsenic and inorganic arsenic compounds		7440-38-2	0.00023	A
√ Arsine		7784-42-1	0.53	B
√ Asbestos (Note: fibers/ml)		1332-21-4	0.0000044	A
Asphalt (petroleum) fumes		8052-42-4	17	B
Atrazine		1912-24-9	17	B
Auramine (technical grade)		2465-27-2	TBD	A
Azinphos-methyl		86-50-0	0.67	B
√ Aziridine	((f))Ethylene imine(g))	151-56-4	2.9	B
Barium, soluble compounds Ba		7440-39-3	1.7	B
Benomyl		17804-35-2	33	B
√ Benzene		71-43-2	0.12	A
√ Benzidine and its salts		92-87-5	0.000015	A
√ Benzo(a)anthracene	((f))LPOM](g))	56-55-3	TBD	A
√ Benzo(a)pyrene	((f))LPOM](g))	50-32-8	0.00048	A
√ Benzo(b)fluoranthene	((f))LPOM](g))	205-99-2	TBD	A
Benzo(j)fluoranthene		205-82-3	TBD	A
√ Benzo(k)fluoranthene	((f))LPOM](g))	207-08-9	TBD	A
√ Benzotrichloride		98-07-7	TBD	B
Benzoyl peroxide		94-36-0	17	B
√ Benzyl chloride		100-44-7	17	B
Benzyl violet 4b		1694-09-3	TBD	A
√Beryllium and its compounds		7440-41-7	0.00042	A
√Biphenyl		92-52-4	4.3	B
√Bis(2-chloroethyl)ether	((f))Dichloroethyl ether(g))	111-44-4	0.003	A
√Bis(chloromethyl)ether		542-88-1	0.000016	A
√Bis(2-ethylhexyl)phthalate	((f))DEHP; Di(2-ethylhexyl)phthalate(g))	117-81-7	2.5	A
Bismuth telluride		1304-82-1	33	B
Bismuth telluride Se doped		1304-82-1	17	B
Borates, anhydrous		1303-96-4	3.3	B
Borates, decahydrate		1303-96-4	17	B
Borates, pentahydrate		1303-96-4	3.3	B
Boron oxide		1303-86-2	33	B
Boron tribromide		10294-33-4	33	B
Boron trifluoride		76737-07-2	9.3	B
Bromacil		314-40-9	33	B
Bromine		7726-95-6	2.2	B
Bromine pentafluoride		7789-30-2	2.4	B
√Bromoform		75-25-2	0.91	A
√Bromomethane	((f))Methyl bromide(g))	74-83-9	5.0	B
√1,3-Butadiene		106-99-0	0.0036	A
Butane		106-97-8	6300.0	B
√2-Butanone	((f))Methyl ethyl ketone; MEK(g))	78-93-3	1000	B

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√2-Butoxyethanol	<u>[glycol ether]</u> ((f))Butyl cellosolve; Ethylene glycol monobutyl ether((g))	111-76-2	400	B
n-Butyl acetate		123-86-4	2400	B
sec-Butyl acetate		105-46-4	3200	B
tert-Butyl acetate		540-88-5	3200	B
Butyl acrylate		141-32-2	170	B
n-Butyl alcohol		71-36-3	500	B
sec-Butyl alcohol		78-92-2	1000	B
tert-Butyl alcohol		75-65-0	1000	B
√Butyl cellosolve <u>[glycol ether]</u> 2-Butoxyethanol; Ethylene glycol monobutyl ether		111-76-2	400	B
√tert-Butyl chromate, as CrO ₃	((f))[chromium compound]((g))	1189-85-1	0.33	B
n-Butyl glycidyl ether	((f))BGE((g))	2426-08-6	440	B
n-Butyl lactate		138-22-7	83	B
n-Butyl mercaptan		109-79-5	6.0	B
n-Butylamine		109-73-9	50.0	B
√1,2-Butylene oxide	((f))1,2-Epoxybutane((g))	106-88-7	20	B
o-sec-Butylphenol		89-72-5	100	B
p-tert-Butyltoluene		98-51-1	200	B
β-Butyrolactone		3068-88-0	TBD	A
√Cadmium and compounds		7440-43-9	0.00056	A
√Calcium cyanamide		156-62-7	1.7	B
Calcium hydroxide		1305-62-0	17	B
Calcium oxide		1305-78-8	6.7	B
Camphor, synthetic		76-22-2	40	B
√Caprolactam, dusts		105-60-2	3.3	B
√Caprolactam, vapors		105-60-2	67	B
Captafol		2425-06-1	0.33	B
√Captan		133-06-2	17	B
√Carbaryl		63-25-2	17	B
Carbofuran		1563-66-2	0.33	B
Carbon black		1333-86-4	12	B
√Carbon disulfide		75-15-0	100	B
Carbon tetrabromide		558-13-4	4.7	B
√Carbon tetrachloride		56-23-5	0.067	A
Carbonyl fluoride		353-50-4	18	B
√Carbonyl sulfide		463-58-1	TBD	B
√Catechol		120-80-9	77	B
√Cellosolve <u>[glycol ether]</u>	((f))2-Ethoxyethanol((g))	110-80-5	200	B
Cesium hydroxide		21351-79-1	6.7	B
√Chloramben		133-90-4	TBD	B
√Chlordane		57-74-9	0.0027	A
√Chlorinated camphene	((f))Toxaphene((g))	8001-35-2	0.0031	A
Chlorinated diphenyl oxide	((f))hexachlorophenyl ether((g))	55720-99-5	1.7	B
√Chlorine		7782-50-5	5.0	B
Chlorine dioxide		10049-04-4	0.2	B
Chlorine trifluoride		7790-91-2	1.3	B
1-Chloro-1-nitropropane		600-25-9	33	B
√1-Chloro-2,3-epoxypropane	(Epichlorohydrin)	106-89-8	0.83	A
Chloroacetaldehyde		107-20-0	11	B
√Chloroacetic acid		79-11-8	TBD	B
√α-Chloroacetophenone		532-27-4	1.1	B
Chloroacetyl chloride		79-04-9	0.67	B
o-Chlorobenzylidene malononitrile		2698-41-1	1.3	B
√Chlorobenzene		108-90-7	150	B
√Chlorobenzilate		510-15-6	0.2	A
Chlorobromomethane		74-97-5	3500	B

PROPOSED

Chlorodifluoromethane		75-45-6	12000	B
√Chloroethane	((f))Ethyl chloride(f))	75-00-3	10000	B
√Chloroform		67-66-3	0.043	A
√Chloromethane	((f))Methyl chloride(f))	74-87-3	340	B
√Chloromethyl methyl ether (technical grade)		107-30-2	TBD	A
Chloropentafluoroethane		76-15-3	21000	B
Chlorophenols		108-43-0	0.18	A
Chloropicrin		76-06-2	2.2	B
√β-Chloroprene		126-99-8	120.0	C
o-Chlorostyrene		2039-87-4	940	B
o-Chlorotoluene		95-49-8	860	B
Chlorpyrifos		2921-88-2	0.67	B
√Chromium (II) compounds, as Cr		7440-47-3	1.7	B
√Chromium (III) compounds, as Cr		7440-47-3	1.7	B
√Chromium (VI) compounds		7440-47-3	0.000083	A
√Chromium (metal)		7440-47-3	1.7	B
√Chromyl chloride	((f))[chromium compound](f))	14977-61-8	0.53	B
Clopidol		2971-90-6	33	B
√Cobalt as Co, metals, dusts and fumes		7440-48-4	0.17	B
√Cobalt carbonyl as Co	((f))[cobalt compound](f))	10210-68-1	0.33	B
√Cobalt hydrocarbonyl	((f))[cobalt compound](f))	16842-03-8	0.33	B
√Coke oven emissions		81103*	0.0016	A
Copper as Cu, dusts and mists		7440-50-8	3.3	B
Copper, fumes		7440-50-8	0.67	B
Cotton dust, raw		81106*	0.67	B
Creosote		8001-58-9	TBD	A
√Cresol, all isomers		1319-77-3	73	B
√Crotonaldehyde	((f))[POM](f))	4170-30-3	20.0	B
Crufomate		299-86-5	17	B
√Cumene	((f))Isopropylbenzene(f))	98-82-8	820	B
Cupferron		135-20-6	TBD	A
Cyanamide		420-04-2	6.7	B
√Cyanides, as CN		57-12-5	17	B
Cyanogen		460-19-5	67	B
Cyanogen chloride		506-77-4	2.5	B
√1,4-Cyclohexadienedione	((f))Quinone(f))	106-51-4	1.5	B
Cyclohexane		110-82-7	3400	B
Cyclohexanol		108-93-0	690	B
Cyclohexanone		108-94-1	330	B
Cyclohexene		110-83-8	3400	B
Cyclohexylamine		108-91-8	140	B
Cyclonite		121-82-4	5.0	B
Cyclopentadiene		542-92-7	680	B
Cyclopentane		287-92-3	5700	B
Cyhexatin		13121-70-5	17	B
√2,4-D salts and esters	((f))2,4-Dichlorophenoxy acetic acid(f))	94-75-7	33.0	C
√DDE	((f))p,p'-Dichlorodiphenyldichloroethylene(f))	3547-04-4	0.1	A
DDT	((f))1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane(f))	50-29-3	0.01	A
Decaborane		17702-41-9	0.83	B
Demeton		8065-48-3	0.37	B
√Di(2-ethylhexyl)phthalate	((f))Bis(2-ethylhexyl)phthalate; DEHP(f))	117-81-7	2.5	A
Diacetone alcohol		123-42-2	790	B
N,N-Diacetylbenzidine		613-35-4	TBD	A
4,4'-Diaminodiphenyl ether		101-80-4	TBD	A
Diazinon		333-41-5	0.33	B

√Diazomethane		334-88-3	1.1	B
Dibenz(a,h)acridine		226-36-8	TBD	A
√Dibenz(a,h)anthracene	((6)) [POM] ((6))	53-70-3	TBD	A
Dibenz(a,j)acridine		224-42-0	TBD	A
Dibenzo(a,e)pyrene		192-65-4	TBD	A
Dibenzo(a,h)pyrene		189-64-0	TBD	A
Dibenzo(a,l)pyrene		191-30-0	TBD	A
√Dibenzofurans		132-64-9	TBD	A
1,2,7,8-Dibenzopyrene	((6)) Dibenzo(a,i)pyrene ((6))	189-55-9	TBD	A
Diborane		19287-45-7	0.37	B
√1,2-Dibromoethane	Ethylene dibromide	106-93-4	0.0045	A
√1,2-Dibromo-3-chloropropane		96-12-8	0.20	B
Dibutyl phosphate		107-66-4	29	B
√Dibutyl phthalate		84-74-2	17	B
2-N-Dibutylaminoethanol		102-81-8	47	B
Dichloroacetylene		7572-29-4	1.3	B
√1,4-Dichlorobenzene	((6)) p-Dichlorobenzene ((6))	106-46-7	1.5	A
o-Dichlorobenzene	((6)) 1,2-Dichlorobenzene ((6))	95-50-1	1000	B
√3,3'-Dichlorobenzidine		91-94-1	0.077	A
1,4-Dichloro-2-butene		764-41-0	0.00038	A
3,3'-Dichloro-4,4'-diaminodiphenyl ether		28434-86-8	TBD	A
Dichlorodifluoromethane		75-71-8	16000	B
1,3-Dichloro-5,5-dimethylhydantoin		118-52-5	0.67	B
√p,p'-Dichlorodiphenyldichloroethylene	((6)) DDE ((6))	3547-04-4	0.1	A
√1,1-Dichloroethane	((6)) Ethylidene dichloride ((6))	75-34-3	2700	B
√1,2-Dichloroethane	((6)) Ethylene dichloride ((6))	107-06-2	0.038	A
√Dichloroethyl ether	((6)) Bis (2-chloroethyl) ether ((6))	111-44-4	0.003	A
√1,1-Dichloroethylene	((6)) Vinylidene chloride ((6))	75-35-4	67	B
1,2-Dichloroethylene		540-59-0	2600	B
Dichlorofluoromethane		75-43-4	130	B
√Dichloromethane	((6)) Methylene chloride ((6))	75-09-2	0.56	A
1,1-Dichloro-1-nitroethane		594-72-9	40	B
√2,4-Dichlorophenoxy acetic acid	2,4-D salts and esters	94-75-7	33.0	C
Dichlorophenylarsine ((arsenic group))		696-28-6	TBD	A
√1,2-Dichloropropane	((6)) Propylene dichloride ((6))	78-87-5	4.0	C
√Dichloropropene		542-75-6	20	B
2,2-Dichloropropionic acid		75-99-0	19	B
Dichlorotetrafluoroethane		76-14-2	23000	B
√Dichlorvos		62-73-7	3.3	B
Dicrotophos		141-66-2	0.83	B
Dicyclopentadiene		77-73-6	100	B
Dicyclopentadienyl iron		102-54-5	33	B
Dieldrin		60-57-1	0.00022	A
√Diethanolamine		111-42-2	43	B
√Diethyl aniline	Dimethylaniline	121-69-7	83	B
Diethyl ketone		96-22-0	2300	B
((Diethyl nitrosamine))	Diethylnitrosoamine ((6)) DEN; N-Nitrosodiethylamine ((6))	55-18-5	0.000023	A
Diethyl phthalate		84-66-2	17	B
√Diethyl sulfate		64-67-5	TBD	B
Diethylamine		109-89-7	100	B
Diethylaminoethanol		100-37-8	170	B
Diethylene triamine		111-40-0	14	B
√1,4-Diethyleneoxide	1,4-Dioxane	123-91-1	0.032	A
1,2-Diethylhydrazine		1615-80-1	TBD	A
Difluorodibromomethane		75-61-6	2900	B

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Diglycidyl ether		2238-07-5	1.7	B
Diglycidyl resorcinol ether		101-90-6	TBD	A
Dihydroxymethyl-furatrizine	Panfuran S	794-93-4	TBD	A
Diisobutyl ketone		108-83-8	480	B
Diisopropylamine		108-18-9	67	B
√3,3'-Dimethoxybenzidine	((e))Ortol-dianisidine((g))	119-90-4	TBD	A
√Dimethyl aminoazobenzene		60-11-7	TBD	B
√3,3'-Dimethyl benzidine		119-93-7	0.0038	A
√Dimethyl carbamoyl chloride		79-44-7	TBD	B
√Dimethyl phthalate		131-11-3	17	B
√Dimethyl sulfate		77-78-1	1.7	C
Dimethylacetamide		127-19-5	120	B
Dimethylamine		124-40-3	60	B
√Dimethylaniline	((f))Diethyl aniline((g))	121-69-7	83	B
√Dimethylformamide		68-12-2	30	B
√1,1-Dimethylhydrazine		57-14-7	4.0	B
1,2-Dimethylhydrazine		540-73-8	4.0	C
√Dimethylnitrosoamine	((f))N-Nitrosodimethylamine((g))	62-75-9	0.000071	A
Dinitolmide		148-01-6	17	B
√Dinitro-o-cresol		534-52-1	0.67	B
Dinitrobenzene, all isomers		528-29-0	3.3	B
√2,4-Dinitrophenol		51-28-5	TBD	B
√2,4-Dinitrotoluene		121-14-2	5.0	B
√1,4-Dioxane	((f))1,4-Diethyleneoxide((g))	123-91-1	0.032	A
Dioxathion		78-34-2	0.67	B
√Dioxins and furans		43110*	TBD	A
Diphenylamine		122-39-4	33	B
√1,2-Diphenyl hydrazine		122-66-7	0.0045	A
Dipropyl ketone		123-19-3	780	B
Dipropylene glycol methyl ether		34590-94-8	2000	B
Diquat		85-00-7	1.7	B
Disulfiram		97-77-8	6.7	B
Disulfuton		298-04-4	0.33	B
2,6-Ditert. butyl-p-cresol		128-37-0	33	B
Diuron		330-54-1	33	B
Djvinyl benzene		1321-74-0	180	B
EPN		2104-64-5	1.7	B
Endosulfan		115-29-7	0.33	B
Endrin		72-20-8	0.33	B
Enflurane		13838-16-9	1900	B
√Epichlorohydrin	((f))1-Chloro-2,3-epoxypropane((g))	106-89-8	0.83	A
√1,2-Epoxybutane	((f))1,2-Butylene oxide((g))	106-88-7	20	B
Ethanolamine		141-43-5	25	B
Ethion		563-12-2	1.3	B
√2-Ethoxyethanol	((f))Glycol ether((g)) ((f))Cellosolve((g))	110-80-5	200	B
√2-Ethoxyethyl acetate	((f))Glycol ether((g))	111-15-9	90	B
Ethyl acetate		141-78-6	4800	B
√Ethyl acrylate		140-88-5	66	B
Ethyl alcohol		64-17-5	6300	B
Ethyl amyl ketone		541-85-5	440	B
√Ethyl benzene		100-41-4	1000	B
Ethyl bromide		74-96-4	3000	B
Ethyl butyl ketone		106-35-4	780	B
√Ethyl carbamate	((f))Urethan((g))	51-79-6	TBD	B
√Ethyl chloride	((f))Chloroethane((g))	75-00-3	10000	B

Ethyl ether		60-29-7	4000	B
Ethyl formate		109-94-4	1000	B
Ethyl mercaptan		75-08-1	4.3	B
Ethyl silicate		78-10-4	280	B
Ethylamine		75-04-7	60	B
√Ethylene dichloride	((f))1,2-Dichloroethane((f))	107-06-2	0.038	A
Ethylene chlorohydrin		107-07-3	11	B
Ethylene diamine		107-15-3	83	B
√Ethylene dibromide	((f))1,2-Dibromoethane((f))	106-93-4	0.0045	A
√Ethylene glycol		107-21-1	420	B
Ethylene glycol dinitrate		628-96-6	1.0	B
√Ethylene glycol monobutyl ether	[glycol ether] 2-Butoxyethanol; Butyl cellosolve	111-76-2	400	B
√Ethylene imine	((f))Aziridine((f))	151-56-4	2.9	B
√Ethylene oxide		75-21-8	0.010	A
√Ethylene thiourea		96-45-7	1.0	A
√Ethylidene dichloride	((f))1,1-Dichloroethane((f))	75-34-3	2700	B
Ethylidene norbornene		16219-75-3	83	B
N-Ethylmorpholine		100-74-3	77	B
Fenamiphos		22224-92-6	0.33	B
Fensulfothion		115-90-2	0.33	B
Fenthion		55-38-9	0.67	B
Ferbam		14484-64-1	33	B
Ferrovandium dust		12604-58-9	3.3	B
Fibrous glass dust		81111*	33	B
√Fine mineral fibers		81104*	33	B
Fluorides, as F		16984-48-8	8.3	B
Fluorine		7782-41-4	5.3	B
Fonofos		944-22-9	0.33	B
√Formaldehyde		50-00-0	0.077	A
Formamide		75-12-7	60	B
Formic acid		64-18-6	31	B
Furazolidone		67-45-8	TBD	A
Furfural		98-01-1	26	B
Furfuryl alcohol		98-00-1	130	B
Furium (nitrofuran group)		43111*	TBD	A
Germanium tetrahydride		7782-65-2	2.1	B
Glutaraldehyde		111-30-8	2.5	B
Glyciadaldehyde		765-34-4	TBD	A
Glycidol		556-52-5	250	B
√Glycol ethers		43107*	TBD	B
Hafnium		7440-58-6	1.7	B
Halothane		151-67-7	1300	B
√Heptachlor		76-44-8	0.00077	A
Heptane	((f))n-Heptane((f))	142-82-5	5500	B
√Hexachlorobenzene		118-74-1	0.0022	A
√Hexachlorobutadiene		87-68-3	0.70	B
alpha-Hexachlorocyclohexane ((Lindane) Alpha (BHC))	alpha-Lindane	319-84-6	1.7	C
beta-Hexachlorocyclohexane ((Lindane) Beta (BHC))	beta-Lindane	319-85-7	1.7	C
√gamma-Hexachlorocyclohexane	((f))Lindane((f))Gamma (BHC))	58-89-9	0.0026	A
√Hexachlorocyclopentadiene		77-47-4	0.33	B
1,2,3,6,7,8-Hexachloro-dibenzo-o-dioxin (1:2 mixture)		34465-46-8	TBD	A
1,2,3,7,8,9-Hexachloro-dibenzo-o-dioxin (1:2 mixture)		19408-74-3	TBD	A
√Hexachloroethane		67-72-1	32.0	B
Hexachloronaphthalene		1335-87-1	0.67	B
Hexachlorophenyl ether	((f))Chlorinated diphenyl oxide((f))	55720-99-5	1.7	B

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Hexafluoroacetone		684-16-2	2.3	B
√Hexamethylene diisocyanate		822-06-0	0.11	B
√Hexamethylphosphoramide		680-31-9	TBD	A
√Hexane (n-Hexane)		110-54-3	200	B
Hexane, other isomers		43103*	5900	B
2-Hexanone	((f))Methyl butyl ketone((g))	591-78-6	67	B
√Hexone	((f))Methyl isobutyl ketone; ((f))MIBK((g))	108-10-1	680	B
sec-Hexyl acetate		108-84-9	980	B
Hexylene glycol		107-41-5	400	B
√Hydrazine		302-01-2	0.0002	A
Hydrogen bromide		10035-10-6	33	B
√Hydrogen chloride	((f))Hydrochloric acid((g))	7647-01-0	7.0	B
√Hydrogen cyanide	((f))[cyanide compound]((g))	74-90-8	37	B
√Hydrogen fluoride, as F	((f))Hydrofluoric acid((g))	7664-39-3	8.7	B
Hydrogen peroxide		7722-84-1	4.7	B
Hydrogen selenide, as Se		7783-07-5	0.53	B
Hydrogen sulfide		7783-06-4	0.9	B
√Hydroquinone		123-31-9	6.7	B
2-Hydroxypropyl acrylate		999-61-1	9.3	B
Indene		95-13-6	160	B
√Indeno(1,2,3-cd)pyrene	((f))[POM]((g))	193-39-5	TBD	A
Indium, & compounds as In		7440-74-6	0.33	B
Iodine		7553-56-2	3.3	B
Iodoform		75-47-8	33	B
√Iodomethane	((f))Methyl iodide((g))	74-88-4	40	B
Iron oxide fumes, Fe ₂ O ₃ as Fe		1309-37-1	17	B
Iron pentacarbonyl, as Fe		13463-40-6	0.83	B
Iron salts, soluble as Fe		81101*	3.3	B
Isaomyl acetate		123-92-2	1700	B
Isoamyl alcohol		123-51-3	1200	B
Isobutyl acetate		110-19-0	2400	B
Isobutyl alcohol		78-83-1	510	B
Isocytl alcohol		26952-21-6	890	B
√Isophorone		78-59-1	93	B
Isophorone diisocyanate		4098-71-9	0.15	B
Isopropoxyethanol		109-59-1	350	B
Isopropyl acetate		108-21-4	3500	B
Isopropyl alcohol		67-63-0	3300	B
Isopropyl ether		108-20-3	3500	B
Isopropyl glycidyl ether	((f))IGE((g))	4016-14-2	790	B
Isopropyl oils		43112*	TBD	A
Isopropylamine		75-31-0	40	B
N-Isopropylaniline		768-52-5	37	B
√Isopropylbenzene	((f))Cumene((g))	98-82-8	820	B
Ketene		463-51-4	2.9	B
√Lead acetate	((f))[lead compound]((g))	301-04-2	TBD	A
√Lead arsenate, as Pb ₃ (AsO ₄) ₂	((f))[arsenic and lead compound]((g))	3687-31-8	0.50	B
√Lead chromate, as Cr	((f))[lead compound]((g))	7758-97-6	0.040	B
√Lead compounds		81109*	0.5	C
√Lead phosphate	((f))[lead compound]((g))	7446-27-7	TBD	A
Liquified petroleum gas		68476-85-7	6000	B
alpha-Lindane	alpha-Hexachlorocyclohexane	319-84-6	1.7	C
beta-Lindane	beta-Hexachlorocyclohexane	319-85-7	1.7	C
√Lindane	gamma-Hexachlorocyclohexane	58-89-9	0.0026	A
Lithium hydride		7580-67-8	0.080	B

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Magnesium oxide fumes		1309-48-4	33	B
Malathion		121-75-5	33	B
Maleic anhydride		108-31-6	3.3	B
√Manganese, dusts and compounds		7439-96-5	0.40	B
√Manganese, fumes		7439-96-5	3.3	B
√Manganese cyclopentadienyl tricarbonyl	((m))Manganese compound((s))	12079-65-1	0.33	B
√Mercury, Aryl & inorganic compounds		7439-97-6	0.33	B
√Mercury, as Hg Alkyl compounds		7439-97-6	0.33	B
√Mercury, vapors except alkyl		7439-97-6	0.17	B
Mesityl oxide		141-79-7	200	B
Methacrylic acid		79-41-4	230	B
√Methanol	Methyl alcohol	67-56-1	870	B
Methomyl		16752-77-5	8.3	B
√Methoxychlor		72-43-5	33	B
2-Methoxyethanol	((m))Methyl cellosolve((s))	109-86-4	20	B
√2-Methoxyethyl acetate	((s))Glycol ether((s))	110-49-6	80	B
4-Methoxyphenol		150-76-5	17	B
2-Methyl-1-nitroanthraquinone		129-15-7	TBD	A
Methyl 2-cyanoacrylate		137-05-3	30	B
Methyl acetate		79-20-9	2000	B
Methyl acetylene		74-99-7	5500	B
Methyl acetylene-propadiene mixture	((s))MAPP((s))	59355-75-8	5500	B
Methyl acrylate		96-33-3	120	B
√Methyl alcohol	((s))Methanol((s))	67-56-1	870	B
N-Methyl aniline		100-61-8	7.3	B
√2-Methyl aziridine	((s))1,2-Propylene imine((s))	75-55-8	16	B
Methyl azoxymethyl acetate		592-62-1	TBD	A
√Methyl bromide	((s))Bromomethane((s))	74-83-9	5.0	B
Methyl cellosolve	((s))2-Methoxyethanol((s))	109-86-4	20	B
√Methyl chloride	((s))Chloromethane((s))	74-87-3	340	B
√Methyl chloroform	((s))1,1,1-Trichloroethane((s))	71-55-6	6400	B
Methyl demeton		8022-00-2	1.7	B
√Methyl ethyl ketone	((s))MEK; 2-Butanone((s))	78-93-3	1000	B
Methyl ethyl ketone peroxide		1338-23-4	5.0	B
Methyl formate		107-31-3	820	B
√Methyl hydrazine		60-34-4	1.2	B
√Methyl iodide	((s))Iodomethane((s))	74-88-4	40	B
Methyl isoamyl ketone		110-12-3	780	B
Methyl isobutyl carbinol		108-11-2	350	B
√Methyl isobutyl ketone	((s))MIBK; Hexone((s))	108-10-1	680	B
√Methyl isocyanate		624-83-9	0.16	B
Methyl isopropyl ketone		563-80-4	2300	B
Methyl mercaptan		74-93-1	3.3	B
√Methyl methacrylate		80-62-6	1400	B
Methyl n-amyl ketone		110-43-0	780	B
Methyl n-butyl ketone		591-78-6	67	B
Methyl parathion		298-00-0	0.67	B
Methyl propyl ketone		107-87-9	2300	B
Methyl silicate		681-84-5	20	B
a-Methyl styrene		98-83-9	810	B
√Methyl tert-butyl ether		1634-04-4	500	B
Methylacrylonitrile		126-98-7	9.0	B
Methylal		109-87-5	10000	B
Methylamine		74-89-5	43	B
5-Methylchrysene		3697-24-3	TBD	A

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Methylcyclohexane		108-87-2	5400	B
Methylcyclohexanol		25639-42-3	780	B
o-Methylcyclohexanone		583-60-8	760	B
√Methylcyclopentadienyl manganese tricarbonyl	((f))[manganese compound](g)	12108-13-3	0.67	B
Methylene bis(4-cyclo-hexylisocyanate)		5124-30-1	0.18	B
4,4'-Methylene bis(2-methylaniline)		838-88-0	TBD	A
√4,4'-Methylene bis(2-chloroaniline)		101-14-4	0.7	C
√Methylene bis(phenyl isocyanate)	((f))Methylene diphenyl diisocyanate(g); MDI(g)	101-68-8	0.2	B
√Methylene chloride	((f))Dichloromethane(g)	75-09-2	0.56	A
√4,4-Methylene dianiline		101-77-9	2.7	C
4,4-Methylenedianiline dihydrochloride		13552-44-8	TBD	A
4-(Methylnitrosamino)-1-(3-pyridyl)-1-butanone		64091-91-4	TBD	A
Metribuzin		21087-64-9	17	B
Mevinphos		7786-34-7	0.33	B
Mirex		2385-85-5	TBD	A
Molybdenum, as Mo soluble compounds		7439-98-7	17	B
Molybdenum, insoluble compounds		7439-98-7	33	B
Monocrotophos		6923-22-4	0.83	B
Morpholine		110-91-8	240	B
5-(Morpholinomethyl)-3-((5-nitrofurfurylidene)((f))amino)-2-oxazolidinone ((furaladone)) Furaladone		139-91-3	TBD	A
Naled		300-76-5	10	B
Naphtha	((f))Rubber solvent(g)	43102*	5300	B
√Naphthalene		91-20-3	170	B
1-Naphthylamine		134-32-7	TBD	A
√Nickel and compounds (as nickel subsulfide or nickel refinery dust)		7440-02-2	0.0021	A
Nicotine		54-11-5	1.7	B
Nitrapyrin		1929-82-4	33	B
Nitric acid		7697-37-2	17	B
Nitric oxide		10102-43-9	100	B
5-Nitroacenaphthene		602-87-9	TBD	A
p-Nitroaniline		100-01-6	10	B
√Nitrobenzene		98-95-3	1.7	B
√4-Nitrobiphenyl		92-93-3	TBD	B
p-Nitrochlorobenzene		100-00-5	2.0	B
Nitroethane		79-24-3	1000	B
Nitrofen		1836-75-5	TBD	A
Nitrofurans Furazolidone		43114*	TBD	A
Nitrofurazone		59-87-0	TBD	A
1-(5-Nitrofurfurylidene)amino)-2-imidazolidinone		555-84-9	TBD	A
Nitrogen mustard N-oxide		126-85-2	TBD	A
Nitrogen mustard n-oxide hydro-chloride		302-70-5	TBD	A
Nitrogen trifluoride		7783-54-2	97	B
Nitroglycerin		55-63-0	1.5	B
Nitromethane		75-52-5	830	B
√4-Nitrophenol		100-02-7	TBD	B
1-Nitropropane		108-03-2	20	B
√2-Nitropropane		79-46-9	0.00037	A
N-Nitrosodiethylamine	((d))Diethylnitrosoamine(g); ((f))DEN(g)	55-18-5	0.000023	A
√N-Nitrosodimethylamine	((f))Dimethylnitrosoamine(g)	62-75-9	0.000071	A
N-Nitrosodi-n-butylamine		924-16-3	0.00063	A
N-Nitrosodi-n-propylamine		621-64-1	TBD	A
N-Nitrosodiphenylamine		86-30-6	TBD	A
N-Nitrosomethylethylamine		10595-95-6	TBD	A
√N-Nitrosomorpholine		59-89-2	TBD	A
N-Nitroso-n-ethylurea	((f))NEU(g)	759-73-9	TBD	A
√N-Nitroso-N-methylurea	((f))NMU(g)	684-93-5	TBD	B

N-Nitroso-n-methylurethane		615-53-2	TBD	A
Nitrotoluene		88-72-2	37	B
N-(4-(5-Nitro-2-furyl)-2-thiazolyl)acetamide		531-82-8	TBD	A
Nonane		111-84-2	3500	B
Octachloronaphthalene		2234-13-1	0.33	B
Octane		111-65-9	4700	B
Oil mist, mineral		8012-95-1	17	B
Oil orange SS		2646-17-5	TBD	A
√Ortol-dianisidine	3,3'-Dimethoxybenzidine	119-90-4	TBD	A
Osmium tetroxide as Os		20816-12-0	0.0053	B
Oxalic acid		144-62-7	3.3	B
Oxygen difluoride		7783-41-7	0.37	B
Panfuran S	((d))Dihydroxymethyl-furatrizine((d))	794-93-4	TBD	A
Parafin wax fumes		8002-74-2	6.7	B
Paraquat		4685-14-7	4.5	B
√Parathion		56-38-2	0.33	B
Pentaborane		19624-22-7	0.043	B
Pentachloronaphthalene		1321-64-8	1.7	B
√Pentachloronitrobenzene	((e))Quintobenzene((e))	82-68-8	1.7	B
√Pentachlorophenol		87-86-5	0.33	A
Pentane		109-66-0	6000	B
√Perchloroethylene	((f))Tetrachloroethylene((f))	127-18-4	1.1	A
Perchloromethyl mercaptan		594-42-3	2.5	B
Perchloryl fluoride		7616-94-6	43	B
√Phenol		108-95-2	63	B
Phenothiazine		92-84-2	1.7	B
Phenoxybenzamine hydrochloride		63-92-3	TBD	A
Phenyl ether		101-84-8	23	B
Phenyl glycidyl ether		122-60-1	2000	B
Phenyl mercaptan		108-98-5	7.7	B
√p-Phenylenediamine		106-50-3	0.33	B
Phenyldiazine		100-63-0	1.5	B
Phenylphosphine		638-21-1	0.77	B
N-Phenyl-2-naphthylamine		135-88-6	TBD	A
Phorate		298-02-2	0.17	B
√Phosgene		75-44-5	1.3	B
√Phosphine		7803-51-2	1.3	B
Phosphoric acid		7664-38-2	3.3	B
√Phosphorus		7723-14-0	0.33	B
Phosphorus oxychloride		10025-87-3	2.1	B
Phosphorus pentachloride		10026-13-8	2.8	B
Phosphorus pentasulfide		1314-80-3	3.3	B
Phosphorus trichloride		7719-12-2	3.7	B
√Phthalic anhydride		85-44-9	20	B
m-Phthalodinitrile		626-17-5	17	B
Picloram		1918-02-1	33	B
Picric acid		88-89-1	0.33	B
Pindone		83-26-1	0.033	B
Piperazine dihydrochloride		142-64-3	17	B
Platinum, metals		7440-06-4	3.3	B
Platinum, soluble salts as Pt		7440-06-4	0.0067	B
Polyaromatic hydrocarbons	((g))PAH((g))	43116*	0.00048	A
√Polychlorinated biphenyls	((g))PCB((g))	1336-36-3	0.0045	A
√Polycyclic Organic Matter	POM	43108*	TBD	A
Ponceau MX		3761-53-3	TBD	A
Potassium hydroxide		1310-58-3	6.7	B

PROPOSED

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Primary Aluminum Smelter uncontrolled roof vent PAH emissions		81113*	0.0013	A
√1,3-Propane sultone		1120-71-4	TBD	A
Propargyl alcohol		107-19-7	7.7	B
√β-Propiolactone		57-57-8	5.0	B
√Propionaldehyde		123-38-6	TBD	B
√Propoxur		114-26-1	1.7	B
Propionic acid		79-09-4	100	B
n-Propyl acetate		109-60-4	2800	B
n-Propyl alcohol		71-23-8	1600	B
n-Propyl nitrate		627-13-4	360	B
√Propylene dichloride	((f))1,2-Dichloropropane((f))	78-87-5	4.0	C
Propylene glycol dinitrate		6423-43-4	1.1	B
Propylene glycol mono-methyl ether		107-98-2	2000	B
√Propylene oxide		75-56-9	0.27	A
√1,2-Propylene imine	((f))2-Methyl aziridine((f))	75-55-8	16	B
Pyrethrum		8003-34-7	1.7	B
Pyridine		110-86-1	53	B
√Quinoline		91-22-5	TBD	B
√Quinone	((f))1,4-Cyclohexadienedione((f))	106-51-4	1.5	B
√Quintobenzene	((f))Pentachloronitrobenzene((f))	82-68-8	1.7	B
√Radionuclides (including radon)		81105*		
Resorcinol		108-46-3	150	B
Rhodium, insoluble compounds		7440-16-6	3.3	B
Rhodium, metals		7440-16-6	3.3	B
Rhodium, soluble compounds		7440-16-6	0.033	B
Ronnel		299-84-3	33	B
Rotenone		83-79-4	17	B
.Rubber solvent	((f))Naphtha((f))	43102*	5300	B
√Selenium compounds, as Se		7782-49-2	0.67	B
√Selenium hexafluoride, as Se	((f))[Selenium compound]((f))	7783-79-1	0.53	B
Sesone		136-78-7	33	B
Silicon tetrahydride		7803-62-5	22	B
Silver, metals		7440-22-4	0.33	B
Silver, soluble compounds, as Ag		7440-22-4	0.033	B
Sodium azide		26628-22-8	1.0	B
Sodium bisulfite		7631-90-5	17	B
Sodium fluoroacetate		62-74-8	0.17	B
Sodium hydroxide		1310-73-2	6.7	B
Sodium metabisulfite		7681-57-4	17	B
Stibine		7803-52-3	1.7	B
Strychnine		57-24-9	0.5	B
√Styrene		100-42-5	1000	B
√Styrene oxide		96-09-3	TBD	B
Subtilisins		1395-21-7	0.0002	B
Sulfotep		3689-24-5	0.67	B
Sulfur hexafluoride		2551-62-4	20000	B
Sulfur monochloride		10025-67-9	18	B
Sulfur pentafluoride		5714-22-7	0.33	B
Sulfur tetrafluoride		7783-60-0	1.5	B
Sulfuric acid		7664-93-9	3.3	B
Sulfuryl fluoride		2699-79-8	67	B
Sulprofos		35400-43-2	3.3	B
2,4,5-T		93-76-5	33	B
TEPP		107-49-3	0.16	B
Tantalum, metals & oxide dusts		7440-25-7	17	B
Tellurium & compounds as Te		13494-80-9	0.33	B

Tellurium hexafluoride, as Te		7783-80-4	0.33	B
Temephos		3383-96-8	33	B
Terphenyls		26140-60-3	16	B
P(p)(ααα) Tetra-chlorotoluene		5216-25-1	TBD	A
√2,3,7,8-Tetrachlorodibenzo-p-dioxin	((ε)2,3,7,8-TCDD(ε))	1746-01-6	0.0000003	A
1,1,2,2-Tetrachloro-1,2-difluoroethane		76-12-0	14000	B
1,1,1,2-Tetrachloro-2,2-difluoroethane		76-11-9	14000	B
√1,1,2,2-Tetrachloroethane		79-34-5	23	B
√Tetrachloroethylene	((ε)Perchloroethylene(ε))	127-18-4	1.1	A
Tetrachloronaphthalene		1335-88-2	6.7	B
√Tetraethyl lead, as Pb	((ε)[lead compound](ε))	78-00-2	0.33	B
Tetrahydrofuran		109-99-9	2000	B
√Tetramethyl lead, as Pb	((ε)[lead compound](ε))	75-74-1	0.5	B
Tetramethyl succinonitrile		3333-52-6	9.3	B
Tetranitromethane		509-14-8	27	B
Tetrasodium pyrophosphate		7722-88-5	17	B
Tetryl		479-45-8	5.0	B
Thallium, soluble compounds, Tl		7440-28-0	0.33	B
4,4-Thiobis(6-tert, butyl-m-cresol)		96-69-5	33	B
4,4'-Thiodianiline		139-65-1	TBD	A
Thioglycolic acid		68-11-1	13	B
Thionyl chloride		7719-09-7	16	B
Thiuram		137-26-8	3.3	B
Thorium dioxide		1314-20-1	TBD	A
Tin, metals		7440-31-5	6.7	B
Tin, organic compounds, as Sn		7440-31-5	0.33	B
Tin, oxide & inorganic except SnH ₄		7440-31-5	6.7	B
√Titanium tetrachloride		7550-45-0	TBD	B
√Toluene		108-88-3	400	B
√2,4-Toluene diamine	((ε)2,4-Diamino toluene(ε))	95-80-7	0.011	A
√2,4-Toluene diisocyanate	((ε)TDI(ε))	584-84-9	0.12	C
m-Toluidine		108-44-1	29	B
√o-Toluidine		95-53-4	0.14	A
o-Toluidine hydrochloride		636-21-5	0.14	A
p-Toluidine		106-49-0	29	B
√Toxaphene	((ε)Chlorinated camphene(ε))	8001-35-2	0.0031	A
Trans-2((Dimethylamino)methylimino)-5-(2-(5-nitro-2-furyl) vinyl)-1,3,4-oxadiazole		55738-54-0	TBD	A
Tributyl phosphate		126-73-8	7.3	B
1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane	DDT	50-29-3	0.01	A
1,1,2-Trichloro-1,2,2-trifluoroethane		76-13-1	27000	B
Trichloroacetic acid		76-03-9	22	B
√1,2,4-Trichlorobenzene		120-82-1	120	B
√1,1,1-Trichloroethane	((ε)Methyl chloroform(ε))	71-55-6	6400	B
√1,1,2-Trichloroethane		79-00-5	180	B
√Trichloroethylene		79-01-6	0.59	A
Trichlorofluoromethane		75-69-4	19000	B
Trichloronaphthalene		1321-65-9	17	B
√2,4,5-Trichlorophenol		95-95-4	TBD	B
√2,4,6-Trichlorophenol		88-06-2	0.32	A
1,2,3-Trichloropropane		96-18-4	200	B
√Triethylamine		121-44-8	7.0	B
Trifluorobromomethane		75-63-8	20000	B
√Trifluralin		1582-09-8	TBD	B
Trimellitic anhydride		552-30-7	0.13	B
Trimethyl benzene		2551-13-7	420	B

PROPOSED

PROPOSED

Trimethyl phosphite		121-45-9	33	B
Trimethylamine		75-50-3	80	B
√2,2,4-Trimethylpentane		540-84-1	TBD	B
2,4,6-Trinitrotoluene		118-96-7	1.7	B
Triorthocresyl phosphate		78-30-8	0.33	B
Triphenyl amine		603-34-9	17	B
Triphenyl phosphate		115-86-6	10	B
Tungsten, insoluble compounds		7440-33-7	17	B
Tungsten, soluble compounds		7440-33-7	3.3	B
Turpentine		8006-64-2	1900	B
Uranium, insoluble & soluble		7440-61-1	0.67	B
√Urethan	((f))Ethyl carbamate((f))	51-79-6	TBD	B
VM & P Naphtha		8032-32-4	4600	B
n-Valeraldehyde		110-62-3	590	B
Vanadium, as V ₂ O ₅		1314-62-1	0.17	B
√Vinyl acetate		108-05-4	200	B
√Vinyl bromide		593-60-2	73	B
√Vinyl chloride		75-01-4	0.012	A
Vinyl cyclohexene dioxide		106-87-6	200	B
Vinyl toluene		25013-15-4	800	B
√Vinylidene chloride	((f))1,1-Dichloroethylene((f))	75-35-4	67	B
Warfarin		81-81-2	0.33	B
Welding fumes		81108*	17	B
m-Xylene a,a'-diamine		1477-55-0	0.33	B
√Xylenes (m-,o-,p-isomers)		1330-20-7	1500	B
Xylidine		1300-73-8	8.3	B
Yttrium, metals and compounds as Y		7440-65-5	3.3	B
Zinc chloride fumes		7646-85-7	3.3	B
√Zinc chromates	((f))[chromium compound]((f))	13530-65-9	0.033	B
Zinc oxide, fumes		1314-13-2	17	B
Zirconium compounds, as Zr		7440-67-7	17	B

WSR 00-04-023
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed January 24, 2000, 3:28 p.m.]

Acceptable Source Impact Level (ASIL) means a concentration of a toxic air contaminant in the outdoor atmosphere in any area that does not have restricted or controlled public access that is used to evaluate the air quality impacts of a single source. There are 3 types of acceptable source impact levels:

			Averaging Time
Risk-Based	Type A	carcinogens	annual arithmetic mean
Threshold-Based	Type B	non-carcinogens	24-hour arithmetic mean
Special	Type C	carcinogens	24-hour arithmetic mean

TBD = To Be Determined

*numbers assigned by Puget Sound Clean Air Agency, not Chemical Abstracts Service (CAS) registry numbers

√ = EPA 112(b) hazardous air pollutant (HAP)

[italics] = compounds that are the basis of listing the chemical as an EPA HAP

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

Reviser's note: 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.

Original Notice.
 Preproposal statement of inquiry was filed as WSR 99-11-005.

Title of Rule: Adds new WAC to chapter 415-104 WAC, preretirement death benefit in law enforcement and fire fighters retirement system (LEOFF) Plan 2.

Purpose: Changes to chapter 415-104 WAC to:

- Accommodate a recent change in the law that allows LEOFF Plan 2 members to designate a trust as a death benefit beneficiary;
- Advise LEOFF Plan 2 members how to fill out forms so that their intended beneficiaries receive the preretirement death benefit.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.26.510.

Summary: The proposed new rule guides LEOFF Plan 2 members through the process of designating a beneficiary for preretirement death benefits.

Reasons Supporting Proposal: To enable LEOFF Plan 2 members to properly complete forms so that their intended

beneficiary(ies) will qualify for the preretirement death benefit.

Name of Agency Personnel Responsible for Drafting: Elyette Weinstein, 6835 Capitol Boulevard, Tumwater, (360) 664-7307; Implementation and Enforcement: Leah Wilson, 6835 Capitol Boulevard, Tumwater, (360) 664-7049.

Name of Proponent: Department of Retirement Systems (DRS), governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed new rule:

- Accommodate a recent change in the law that allows LEOFF Plan 2 members to designate a trust as a death benefit beneficiary;
- Guides LEOFF Plan 2 members through the process of designating a beneficiary for preretirement death benefits. The rule will enable LEOFF Plan 2 members to properly complete forms so that their intended beneficiary(ies) will qualify for the preretirement death benefit.

Proposal does not change existing rules. New WAC 415-104-450 has been drafted to guide LEOFF Plan 2 members through the process of designating a beneficiary for preretirement death benefits. Proper completion of the forms will enable these members to designate the intended beneficiary(ies) of their LEOFF Plan 2 preretirement death benefit.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules apply to public employers and employees participating in the retirement systems administered by DRS. No private business are [is] affected by the rules, therefore, no small business [economic] impact statement is required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. DRS is not one of the agencies that RCW 34.05.328 applies to. DRS does not opt to voluntarily bring itself within the coverage of that statute.

Hearing Location: Boardroom, 3rd Floor, 6835 Capitol Boulevard, Tumwater, WA, on March 10, 2000, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Elyette Weinstein by March 10, 2000, 11:00 a.m., TDD (360) 586-5450, or (360) 664-7298.

Submit Written Comments to: Elyette Weinstein, P.O. Box 48380, Olympia, WA 98504-8380, fax (360) 664-3618, by March 9, 2000.

Date of Intended Adoption: March 10, 2000.

January 24, 2000

Elyette M. Weinstein
Rules Coordinator

NEW SECTION

WAC 415-104-450 Designation of beneficiaries—Death benefit if a member dies before retirement. (1) As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.

(2) Please check the form carefully after you have filled it out to make sure that it is complete, consistent and accurate. The department may return your form if it is inaccurate, inconsistent or incomplete, requiring that you fill out another one.

(3) As a member you may name:

(a) An organization or person, including your unborn or later adopted children. Unborn or later adopted children will not be included unless you specifically designate them as beneficiaries on the form. You must state the date of birth for any living person you name as a beneficiary;

(b) Your estate;

(c) An existing trust. You must send the department a copy of the trust document and the name, address, telephone number of the current trustee, and the tax identification number. If you do not send this information to the department, it will not honor the existence of a trust;

(d) A trust to be established under your last will.

(4) If you want the beneficiary to be entitled to a death benefit only if certain conditions exist, such as the establishment of a trust, you must state this on the beneficiary form that you file with the department.

(5) You may name contingent beneficiaries in addition to primary beneficiaries.

Example:

Facts

Royce, a member, fills out a beneficiary designation form. In section two of the form under "beneficiary designation," he names "Coco" his daughter from his second marriage. He checks the primary beneficiary designation box beside her name.

In addition, in section two, under "trusts or organizations," Royce names "Portia" his daughter from his first marriage. Next to Portia's name he checks the primary beneficiary box. Under the caption "trustee or administrator," he states: "Both."

Royce does not send a trust document to the department.

Result

The department should return this form to the member because it is incomplete and inconsistent. Since both daughters are named as primary beneficiaries the department cannot tell whether the member wanted each to be named as a primary beneficiary, simultaneously taking a percentage of the death benefit. The form does not state whether Portia is a contingent primary beneficiary who is only entitled to a benefit if a trust is in existence.

In addition, since the member did not submit a trust document the department cannot determine whether a trust is even in existence.

WSR 00-04-024
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
 [Filed January 24, 2000, 3:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-21-025.

Title of Rule: Changes to chapter 415-112 WAC to clarify and comply with amendments to chapter 41.32 RCW. New WAC in chapter 415-108 WAC to comply with change in chapter 41.40 RCW that allows members to designate trusts as beneficiaries of a death benefit.

Purpose: To amend the department's rules implementing the law codified in chapters 41.32 and 41.34 RCW in order to make those rules consistent with TRS Plan 3 which became effective July 1, 1996, and with clear rule-writing principles.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: Chapters 41.32 and 41.34, 41.40 RCW.

Summary: The proposed rules amend the department's teacher retirement system rules so that they clarify and conform to RCW 41.32.831 *et seq.* and changes to chapters 41.32 and 41.40 RCW that allows members to designate a trust as the beneficiary of a death benefit.

Reasons Supporting Proposal: To bring the department's rules into conformity with chapters 41.32, 41.34 and 41.40 RCW as amended.

Name of Agency Personnel Responsible for Drafting: Elyette Weinstein, 6835 Capitol Boulevard, Tumwater, (360) 664-7307; **Implementation and Enforcement:** Margaret Wimmer, 6835 Capitol Boulevard, Tumwater, (360) 664-7044.

Name of Proponent: Department of Retirement Systems (DRS), governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule is an amendment to provisions of chapter 415-112 WAC governing the department's implementation of the teachers retirement systems codified in chapters 41.32 and 41.34 RCW. The amendments are necessary to reflect the existence of TRS Plan 3 which became effective July 1, 1996.

We have also revised rules in chapter 415-112 WAC to conform to clear rule-writing standards and reflect long standing department practice.

Proposal Changes the Following Existing Rules: The proposal changes the following WACs:

The following WACs are changed to include references to TRS Plan 3: WAC 415-112-125, 415-112-140, 415-112-

145, 415-112-460, 415-112-4605, 415-112-4608, 415-112-471, 415-112-473, and 415-112-475.

The following WACs have been changed to reflect long standing department practice and clear rule-writing standards: WAC 415-112-330 and 415-112-477.

WAC 415-112-155 is changed to correct a typographical error.

WAC 415-112-510 is repealed because the conditions addressed by this section, drafted in 1978, no longer exist.

Two new sections WAC 415-112-920 and 415-112-950, have been drafted to conform to the requirements of RCW 41.32.875 regarding eligibility and chapter 41.34 RCW regarding investment program selection. (TRS Plan 3)

Two new sections WAC 415-112-705 and 415-108-315 have been added to:

- Accommodate a recent change in the law that allows TRS and PERS members to designate a trust as a death benefit beneficiary;
- Advise members how to fill out forms so that their intended beneficiaries receive the preretirement death benefit.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules apply to public employers and employees participating in the retirement systems administered by DRS. No private business are [is] affected by the rules, therefore, no small business [economic] impact statement is required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. DRS is not one of the agencies that RCW 34.05.328 applies to. DRS does not opt to voluntarily bring itself within the coverage of that statute.

Hearing Location: Boardroom, 3rd Floor, 6835 Capitol Boulevard, Tumwater, WA, on March 10, 2000, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Elyette Weinstein by 11:00 a.m. March 10, 2000, TDD (360) 586-5450, or (360) 664-7298.

Submit Written Comments to: Elyette Weinstein, P.O. Box 48380, Olympia, WA 98504-8380, fax (360) 664-3618, by June 22, 1999 [March 9, 2000].

Date of Intended Adoption: Same as hearing date [March 10, 2000].

January 24, 2000

Elyette M. Weinstein

Rules Coordinator

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-112-125 If I am eligible, how can I establish membership? (1) **If you met the conditions in the following table, you established TRS membership.** Your plan status depends upon the date you established membership, as indicated in the following table:

PROPOSED

Period of Service	Type of Employment	Plan
Prior to 10/01/77 ¹	If you were contracted to teach full-time you were mandated into membership. If you were employed under a less than full-time contract and you exercised your option to establish membership prior to 10/01/77, you had the option to apply for membership under RCW 41.32.240, if you worked 90 or more full-time days ² during a fiscal year.	Plan ((H)) 1
10/01/77 through 06/06/90	If you were contracted to teach full-time you were required to be a member. If you were employed as a substitute teacher or under a less than full-time contract, you have the option to apply for membership under RCW 41.32.240 if you worked a minimum of 90 full-time days ² during a school year, provided 1 month had at least 90 hours.	Plan ((H)) 2
6/07/90 through 08/31/91	You must have been employed in an eligible position as defined in Section 2, Chapter 274, Laws of 1990, (requiring two or more consecutive months of at least 90 hours of compensated employment each month during a school year). For substitute teachers: If you met the above criteria, you may apply for membership and service credit under RCW 41.32.013 and WAC 415-112-140.	Plan ((H)) 2
9/01/91 forward	You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during a school year). For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.	Plan ((H)) 2
7/01/96	<u>You must be employed in an eligible position (requiring at least 5 months of 70 hours or more of compensated employment each month during the school year).</u> <u>For substitute teachers: If you meet the above criteria, you may apply for membership/service credit under RCW 41.32.013 and WAC 415-112-140.</u>	Plan 3

¹ If you previously established Plan ((H)) 1 membership as detailed above, you may reestablish Plan ((H)) 1 membership after October 1, 1977.

² "Ninety days of employment," under RCW 41.32.240 and this section means either:

- (a) Ninety full-time calendar days, or the equivalent, during a school year if you were employed as a teacher under a contract; or
- (b) Ninety full-time days of actual, compensated service, or the equivalent, during a school year if you were employed as a substitute teacher.
- (c) The "equivalent" of a full-time day of employment under (a) and (b) of this subsection is the sum of partial days which, when added together, equals one full-time day.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Member" - RCW 41.32.010.
- (b) "Eligible position" - RCW 41.32.010.
- (c) "Employer" - RCW 41.32.010.
- (d) "Full-time" - RCW 41.32.240
- (e) "Service" - RCW 41.32.010.
- (f) "Substitute teacher" - RCW 41.32.010.
- (g) "Teacher" - RCW 41.32.010.
- (h) "School year" - WAC 415-112-0161.

for membership and service credit in TRS as a substitute teacher if you meet eligibility criteria.

(a) **TRS Plan ((H)) 1.**

(i) If you are a former Plan ((H)) 1 member, you may apply to reestablish Plan ((H)) 1 membership if you work ninety or more full-time days during a school year as a teacher.

(ii) If you are a Plan ((H)) 1 member, you may apply to the department for service credit in Plan ((H)) 1 as a substitute teacher if you work a minimum of twenty full-time days during a school year.

(b) **TRS Plan ((H)) 2.**

(i) You may apply to the department for membership in Plan ((H)) 2 if you:

(A) Work at least seventy hours for five or more months during a school year; or

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-112-140 Am I eligible for membership and service credit as a substitute teacher? (1) You may apply

(B) Worked at least ninety hours for two consecutive months during the school year of September 1, 1990, through August 31, 1991.

(ii) If you have previously established membership in Plan ((H)) 2 and have not withdrawn your contributions, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher during a school year.

(c) TRS Plan 3.

(i) You may apply to the department for membership in Plan 3 if you:

(A) Began employment after July 1, 1996; and

(B) Work at least seventy hours for five or more months during a school year.

(ii) If you have established membership in Plan 3, either by transferring from Plan 2 or establishing membership after July 1, 1996, you may apply to the department for service credit based on any compensated employment you earn as a substitute teacher during a school year.

(2) To apply, you must submit your employer's quarterly reports to the department at the end of a year.

(a) To apply for membership and service credit as a substitute teacher, you must submit your employer's quarterly reports to the department no earlier than:

(i) June 30 of the year for which you are applying for Plan ((H)) 1 service credit; or

(ii) August 31 of the year for which you are applying for Plan ((H)) 2 or Plan 3 service credit.

(b) Your employer cannot report your service and earnings history as a substitute teacher to the department through the retirement system monthly reporting system unless you are also employed in a separate, eligible position with the same employer.

(3) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Member" - RCW 41.32.010.

(b) "Service" - RCW 41.32.010.

(c) "Substitute teacher" - RCW 41.32.010.

(d) "Teacher" - RCW 41.32.010.

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-112-145 Can I terminate my status as a member? (1) If you are a TRS Plan ((H)) 1 member, you will remain a member until you:

(a) Die;

(b) Retire for service or disability; or

(c) Withdraw your accumulated contributions.

(2) If you are a TRS Plan ((H)) 2 member, you will remain a member until you:

(a) Die;

(b) Retire for service or disability; or

(c) Separate from service as a teacher in an eligible position.

(3) If you are a TRS Plan 3 member, you will remain a member until you:

(a) Die; or

(b) Retire for service or disability.

(4) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.32.010.

(b) "Member" - RCW 41.32.010.

(c) "Service" - RCW 41.32.010.

(d) "Teacher" - RCW 41.32.010.

AMENDATORY SECTION (Amending WSR 95-16-053, filed 7/25/95, effective 8/25/95)

WAC 415-112-155 If I work in both a TRS position and PERS position during the same school year, which system will I be in? (1) If you work in both a TRS and PERS position during the same school year, your membership status and the nature of your positions will determine the system your employer will report you in. You will be reported in either TRS or PERS according to the following tables:

Former TRS Plan 1 Members ¹

Type of Concurrent Employment ²	Type of Employer(s)	System You Will Be Reported In
A substitute or less than full-time teaching position and a PERS-eligible position	Same employer	PERS - for both positions.
	Separate TRS employers	<p>PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240.</p> <p>If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.</p>

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	A TRS employer and non-TRS employer	<p>PERS - for PERS position only. Your substitute part-time position is not reported unless you qualify for and elect to establish TRS membership under RCW 41.32.240.</p> <p>If you elect to establish TRS membership, you must elect either to:</p> <ol style="list-style-type: none"> 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.
A full-time teaching position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	<p>You must elect to:</p> <ol style="list-style-type: none"> 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

TRS Plan I Members

Type of Concurrent Employment ²	Type of Employer(s)	System You Will Be Reported In
A full-time or less than full-time TRS position and an eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	<p>You must elect either to:</p> <ol style="list-style-type: none"> 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.
A full-time or less than full-time TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions.
	A TRS employer and non-TRS employer	TRS - for the TRS position only; your ineligible PERS position is not reportable.

TRS Plan II Members

Type of Concurrent Employment ²	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an ineligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for TRS position only; your ineligible PERS position is not reported.
	A TRS employer and non-TRS employer	TRS - for TRS position only; your ineligible PERS position is not reported.

TRS Plan II Members

Type of Concurrent Employment ²	Type of Employer(s)	System You Will Be Reported In
An eligible TRS position and an (ineligible) eligible PERS position	Same employer	TRS - for both positions.
	Separate TRS employers	TRS - for both positions. ²
	A TRS employer and non-TRS employer	You must elect either to: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

PERS Members

Type of Concurrent Employment ²	Type of Employer(s)	System You Will Be Reported In
An eligible PERS position and an ineligible TRS or substitute position	Same employer	PERS - for both positions.
	Separate TRS employers	PERS - for the PERS position only, unless you qualify for and elect to establish membership in TRS at the end of the school year under WAC 415-112-125 (1). If you elect to establish TRS membership, your employers will report you in TRS for both positions. Any previously reported service credit and compensation in PERS will be transferred to TRS.
	A TRS employer and non-TRS employer	PERS - for the PERS position only. You will not be reported for the TRS position unless you elect to either: 1. Have your TRS service reported in PERS and receive service credit in PERS for both positions; or 2. Have your TRS service reported in TRS and not receive service credit for the PERS position.

Neither TRS Nor PERS Member

Type of Concurrent Employment ²	Type of Employer(s)	System You Will Be Reported In
An ineligible TRS and an ineligible PERS position	Same employer	TRS - for both positions if the positions combined, qualify as an eligible position.
	Separate employers, TRS or non-TRS	Neither position reported.
A substitute teaching position and an ineligible PERS position	Same employer	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 34.32.013 and WAC 415-112-140.
	Separate employers, TRS or non-TRS	Neither position reported. However, if you qualify, you may elect to establish membership in TRS at the end of the school year for your substitute teaching position under RCW 41.32.013 and WAC 415-112-140.

² "Former TRS I member", as used here, means you terminate your membership by withdrawing your contributions.

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2 "Concurrently" means during the same school year.

2 EXAMPLE: A TRS II member teaches in an eligible position and during the summer, she works for a state agency in an eligible position under PERS. Because the member has established membership in TRS II through employment as a teacher, her state agency employer must report her service and compensation from the PERS position to the Department in TRS II.

EXAMPLE: A TRS II member is employed concurrently by School District A in an eligible TRS position and by School District B in an eligible PERS position. Because he is a TRS II member, School District B employer must report his service and compensation from the PERS position to the Department in TRS II. If the member terminates his employment in the TRS position with School District A, School District B will report him in PERS for the PERS position.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Eligible position" - RCW 41.32.010 (TRS); RCW 41.40.010 (PERS).

(b) "Employer" - RCW 41.40.010 (PERS); RCW 41.32.010 (TRS).

(c) "Full time" - RCW 41.32.240.

(d) "Ineligible position" - WAC 415-112-0154 (TRS); RCW 41.40.010 (PERS).

(e) "Member" - RCW 41.40.010.

(f) "Membership" - RCW 41.40.023.

(g) "Report" - WAC 415-108-0104.

(h) "Service" - RCW 41.40.010.

NEW SECTION

WAC 415-112-705 Designation of beneficiaries—Death benefit if a member dies before retirement. (1) As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.

(2) Please check the form carefully after you have filled it out to make sure that it is complete, consistent and accurate. The department may return your form if it is inaccurate, inconsistent or incomplete, requiring that you fill out another one.

(3) As a member you may name:

(a) An organization or person, including your unborn or later adopted children. Unborn or later adopted children will not be included unless you specifically designate them as beneficiaries on the form. You must state the date of birth for any living person you name as a beneficiary;

(b) Your estate;

(c) An existing trust. You must send the department a copy of the trust document and the name, address, telephone number of the current trustee, and the tax identification number. If you do not send this information to the department, it will not honor the existence of a trust;

(d) A trust to be established under your last will.

(4) If you want the beneficiary to be entitled to a death benefit only if certain conditions exist, such as the establish-

ment of a trust, you must state this on the beneficiary form that you file with the department.

(5) You may name contingent beneficiaries in addition to primary beneficiaries.

Example:

Facts

Royce, a member, fills out a beneficiary designation form. In section two of the form under "beneficiary designation," he names "Coco" his daughter from his second marriage. He checks the primary beneficiary designation box beside her name.

In addition, in section two, under "trusts or organizations," Royce names "Portia" his daughter from his first marriage. Next to Portia's name he checks the primary beneficiary box. Under the caption "trustee or administrator," he states: "Both."

Royce does not send a trust document to the department.

Result

The department should return this form to the member because it is incomplete and inconsistent. Since both daughters are named as primary beneficiaries the department cannot tell whether the member wanted each to be named as a primary beneficiary, simultaneously taking a percentage of the death benefit. The form does not state whether Portia is a contingent primary beneficiary who is only entitled to a benefit if a trust is in existence.

In addition, since the member did not submit a trust document the department cannot determine whether a trust is even in existence.

AMENDATORY SECTION (Amending WSR 97-09-037, filed 4/14/97, effective 5/15/97)

WAC 415-112-330 Calculating service credit for Plan ((~~§~~) 1) K-12 employees. For Plan ((~~§~~) 1) members who are employed by a school district, a school year ((~~shall~~) will) consist of one hundred eighty days. One year of service credit ((~~shall~~) will) be granted to a Plan ((~~§~~) 1) member who is employed as a classroom teacher for one hundred forty-four or more days during a school year. A fractional year of credit ((~~shall~~) will) be granted to a Plan ((~~§~~) 1) member who is employed for at least twenty days but less than one hundred forty-four days during a school year. The fraction ((~~shall be that produced by using the~~) will use) days employed as the numerator and one hundred eighty as the denominator.

(1) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, a Plan ((~~§~~) 1) classroom teacher ((~~shall~~) will) be granted one day of credit for every seven hours of compensated employment.

(2) If there is no contract, bargaining agreement or employer policy indicating how many hours are in a work day, Plan ((~~§~~) 1) K-12 employees other than school district classroom teachers will earn one day of credit for every eight hours of compensated employment.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-460 Payments for services rendered. WAC 415-112-4601 through 415-112-4609 discuss types of payments for services rendered. Each of the payment types are reportable compensation for TRS Plan ((F)) 1. Certain types of payments for services rendered are excepted from reportable compensation for TRS Plan ((H)) 2 and Plan ((HH)) 3, see WAC 415-112-4605.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-4605 Leave payments earned over time. (1) **Sick, annual, and personal leave usage.** Sick leave, annual leave, and personal leave is accumulated over time and paid to a person during a period of excused absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave was accumulated. When the employee uses his or her accrued leave by taking a scheduled work day off with pay, the payment is deferred compensation for services previously rendered. The payment is a salary or wage earned for services rendered and is reportable.

(2) **Annual leave cash outs.** Annual leave and personal leave cash outs, like payments for leave usage, are deferred compensation earned for services previously rendered.

(a) Plan ((F)) 1. Annual leave and personal leave cash outs are reportable for TRS Plan ((F)) 1.

(b) Plan ((H)) 2 and Plan ((HH)) 3. Although the payments are for services rendered, annual leave and personal leave cash outs are excluded from the definition of reportable compensation in TRS Plan ((H)) 2 and TRS Plan ((HH)) 3, see RCW 41.32.010 (10)(b).

(3) **Sick leave cash outs.** Sick leave cash outs are deferred compensation for services previously rendered. However, these payments are statutorily excluded from reportable compensation for all TRS Plans. See RCW 41.32.010(10), 41.04.340, 28A.400.210 and 28A.310.490.

AMENDATORY SECTION (Amending WSR 98-09-059, filed 4/17/98, effective 5/18/98)

WAC 415-112-4608 Severance pay earned over time.

(1) Plan ((F)) 1. Severance pay must be earned over time in the same manner as annual leave or sick leave in order to be deferred compensation for services previously rendered and to be reportable in Plan ((F)) 1. Severance pay is earned over time if the employment contract(s) entered into at the beginning of the period of employment specify that a certain amount of severance pay will be earned in the coming year in consideration for services rendered.

Example: Mr. Jones is a TRS Plan ((F)) 1 member employed as a school administrator. Since the beginning of his term of employment with the district, his contract has specified that he will earn one week of severance pay for every year of his employment. The earned severance pay

will be paid at the time of his separation. His severance pay is reportable compensation. When Mr. Jones retires, the two weeks severance pay that he earned during his two highest paid years (i.e., one week per year for two years) will be included in his TRS Plan ((F)) 1 retirement calculation.

(2) Plans ((H)) 2 and ((HH)) 3. All forms of severance pay are excluded from earnable compensation for Plans ((H)) 2 and ((HH)) 3 by RCW 41.32.010(10).

(3) Severance pay that is not earned over time is not earned for services rendered and is not reportable in Plan ((F), (H), or (HH)) 1, 2, or 3, see WAC 415-112-491.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-471 Legislative leave. If an employee takes a leave without pay to serve in the legislature, the member is entitled to service and reportable compensation credit for the period.

(1) Plan ((F)) 1. The salary the employee would have earned is reportable compensation if the employee serves at least five years in the legislature. Employer contributions are not required on this imputed payment. Employee contributions are required.

(2) Plan ((H)) 2 and Plan ((HH)) 3. The employee may choose between:

(a) The reportable compensation he or she would have earned had the member not served in the legislature; or

(b) The actual reportable compensation received for teaching plus the legislative reportable compensation.

If the employee selects option (a), he or she is responsible for paying the additional employer and employee contributions to the extent the reportable compensation reported is higher than it would have been under (b) of this subsection.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-473 Paid leave not earned over time. If paid leave is not based upon earned leave accumulated over time, the payment is not a deferred payment for services previously rendered. Further, the member on leave is not currently rendering services in exchange for the payment. However, RCW 41.32.267, 41.32.810 and 41.32.865 identify payments received from the employer while on paid leave as reportable for TRS. Contributions are due on these payments to the extent they meet the following conditions:

(1) The payment is equal to the salary for the position that the person is on leave from;

(2) The payment is actually from the employer. Payments from an employer that are conditioned upon reimbursement from a third party are payments from the third party. Because the payments are not from the employer, they are not reportable compensation. The only exception is union leave paid by the employer subject to reimbursement from the union under the conditions specified in RCW 41.32.267

(Plan ((H)) 1), 41.32.810 (Plan ((H)) 2), 41.32.865 (Plan ((H)) 3), and WAC 415-112-475.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-475 Union leave. If a member takes an authorized leave of absence to serve as an elected official of a labor organization and the employer pays the member on leave subject to reimbursement from the union, the person's pay qualifies as reportable compensation provided that all the conditions of RCW 41.32.267 (Plan ((H)) 1), RCW 41.32.810 (Plan ((H)) 2), or RCW 41.32.865 (Plan ((H)) 3), as appropriate, are met.

AMENDATORY SECTION (Amending WSR 97-03-016, filed 1/6/97, effective 2/6/97)

WAC 415-112-477 Reinstatement or payment instead of reinstatement. (1) Payments to an employee are not earned for services rendered if an employer makes ((payments to an employee)) them for periods ((where)) during which the employee was not employed and ((those)) the payments are made either upon reinstatement ((of the employee)) or instead of reinstatement((, the payments are not earned for services rendered)). ((However)) Nonetheless, RCW 41.40.010(10) specifically designates ((such)) these payments as reportable compensation. The payments are only reportable to the extent that they are equivalent to the salary the employee would have earned had he or she been working. ((Any such)) The payment will be prorated over the entire period that the employee was suspended, terminated, or otherwise absent from work.

(2) For purposes of subsection (1) of this section, "reinstatement" means that the employee is entitled to return to full employment rights by action of either the state personnel board or personnel appeals board following an appeal hearing.

NEW SECTION

WAC 415-112-920 TRS Plan 3 defined benefit retirement eligibility. (1) Definition: Qualified service credit. Members may use only qualified service credit to receive a retirement benefit from the TRS Plan 3 defined benefit plan. The following types of service credit may be used to qualify for retirement:

- (a) TRS Plan 3 service credit;
- (b) Service credit earned in a dual member system, but only in combination with TRS Plan 3 service credit under chapter 41.54 RCW;
- (c) Up to forty-five days of sick leave under RCW 41.32.010;
- (d) Service earned in an out-of-state retirement system that covers public school teachers under RCW 41.32.065.

(2) Members must be age sixty-five to retire with an un-reduced defined benefit if they have earned the following amounts of qualified service credit:

- (a) Ten service credit years; or

(b) Five service credit years which must include twelve service credit months after attaining age fifty-four; or

(c) Five service credit years by July 1, 1996, earned as a TRS Plan 2 member.

(3) Members may retire at age fifty-five with an actuarially reduced defined benefit under RCW 41.32.875 if they have accumulated at least ten years of qualified service credit.

(4) TRS Plan 3 retirement application.

A member must:

(a) Meet the above-stated age and service credit requirements; and

(b) Submit a complete, signed and notarized TRS Plan 3 retirement application; and

(c) Terminate employment with all retirement system employers from which they are claiming service credit. Termination from non-TRS system employers is required if a member is using dual membership rules to qualify for retirement under chapter 41.54 RCW.

NEW SECTION

WAC 415-112-950 Mandatory selection of investment program. A TRS Plan 3 member must select one of the ERBB approved Plan 3 investment programs at the time of enrollment.

(1) Members will be automatically enrolled in the investment program with the total allocation portfolio (TAP) of the Washington State Investment Board (WSIB) if they fail to select an investment program within ninety days of enrollment.

(2) Members must designate one hundred percent of their monthly contributions to a single investment program (self-directed or WSIB). However, they may allocate portions of their contributions to different investment options within the self-directed investment program.

(3) Members have the option to change investment programs and have future contributions posted to another approved investment program. The member must complete a change of investment program form and file it with their employer. Employers must notify the department when a member files for a change of investment form.

(4) Members may maintain accounts in more than one investment program, although they may contribute to only one program at a time. They may transfer funds between investment programs at any time.

NEW SECTION

WAC 415-108-315 Designation of beneficiaries—Death benefit if a member dies before retirement. (1) As a member, you have the right to designate a beneficiary or beneficiaries to receive a benefit in the event of your death while you are an active member. You may change your beneficiary designation at any time by filing a change of beneficiary form with the department.

(2) Please check the form carefully after you have filled it out to make sure that it is complete, consistent and accurate. The department may return your form if it is inaccurate,

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inconsistent or incomplete, requiring that you fill out another one.

(3) As a member you may name:

(a) An organization or person, including your unborn or later adopted children. Unborn or later adopted children will not be included unless you specifically designate them as beneficiaries on the form. You must state the date of birth for any living person you name as a beneficiary;

(b) Your estate;

(c) An existing trust. You must send the department a copy of the trust document and the name, address, telephone number of the current trustee, and the tax identification number. If you do not send this information to the department, it will not honor the existence of a trust;

(d) A trust to be established under your last will.

(4) If you want the beneficiary to be entitled to a death benefit only if certain conditions exist, such as the establishment of a trust, you must state this on the beneficiary form that you file with the department.

(5) You may name contingent beneficiaries in addition to primary beneficiaries.

Example:

Facts

Royce, a member, fills out a beneficiary designation form. In section two of the form under "beneficiary designation," he names "Coco" his daughter from his second marriage. He checks the primary beneficiary designation box beside her name.

In addition, in section two, under "trusts or organizations," Royce names "Portia" his daughter from his first marriage. Next to Portia's name he checks the primary beneficiary box. Under the caption "trustee or administrator," he states: "Both."

Royce does not send a trust document to the department.

Result

The department should return this form to the member because it is incomplete and inconsistent. Since both daughters are named as primary beneficiaries the department cannot tell whether the member wanted each to be named as a primary beneficiary, simultaneously taking a percentage of the death benefit. The form does not state whether Portia is a contingent primary beneficiary who is only entitled to a benefit if a trust is in existence.

In addition, since the member did not submit a trust document the department cannot determine whether a trust is even in existence.

WSR 00-04-025
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed January 24, 2000, 3:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-19-128.

Title of Rule: Changes to general chapter 415-02 WAC to clarify and comply with amendments to chapter 41.50 RCW.

Purpose: To amend the department's general rules in order to make them consistent with 1994 and 1996 statutory amendments to chapter 41.50 RCW and with a state court decision *Newlun v. Retirement Systems* 53 Wn. App. 809, 770 P.2d 1071 (1989).

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: Chapter 41.50 RCW.

Summary: The proposed rules amend the department's general rules.

Reasons Supporting Proposal: To clarify existing rules; bring them into conformity with chapter 41.50 RCW as amended; bring them into conformity with *Newlun v. Retirement Systems* 53 Wn. App. 809, 770 P.2d 1071 (1989); and reflect the agency's address, organizational structure and functions which have changed since 1977 and 1978 when many of the general rules were adopted.

Name of Agency Personnel Responsible for Drafting: Elyette Weinstein, 6835 Capitol Boulevard, Tumwater, (360) 664-7307; Implementation and Enforcement: Leah Wilson, 6835 Capitol Boulevard, Tumwater, (360) 664-7049.

Name of Proponent: Department of Retirement Systems (DRS), governmental.

Rule is necessary because of state court decision, *Newlun v. Retirement Systems* 53 Wn. App. 809, 770 P.2d 1071 (1989).

Explanation of Rule, its Purpose, and Anticipated Effects: The proposed rule is an amendment to provisions of chapter 415-02 WAC, the department's general rules implementing chapters 41.26, 41.32, 41.40 and 41.50 RCW. The amendments are necessary to conform to the changes to chapter 41.50 RCW, the department and a state court decision rendered after the WACs went into effect.

Proposal Changes the Following Existing Rules: WAC 415-02-010 is changed to delete outdated references to DRS organization and location.

WAC 415-02-020 is changed to show the retirement systems that DRS currently administers and the scope of its current authority under chapter 41.50 RCW.

WAC 415-02-030 changes the definitions to reflect current department authority, structure and procedures and to list retirement systems that DRS currently administers.

WAC 415-02-040 is repealed. It is a definition of Retirement Systems Plan 1 which has been moved to the definitions section WAC 415-02-030 in the interest of brevity and clarity.

WAC 415-02-050 updates the reference to the State Environmental Policy Act.

PROPOSED

WAC 415-02-060 is revised to conform to the state court decision in *Newlun v. Retirement Systems* 53 Wn. App. 809, 770 P.2d 1071 (1989). The decision holds that a refund of member contributions does not occur until the member cashes the refund check.

WAC 415-02-070 is repealed. It is a definition of Retirement Systems Plan 2 which has been moved to the definitions section WAC 415-02-030 in the interest of brevity and clarity.

WAC 415-02-080 is revised to clearly advise members that the Internal Revenue Code gives the department authority to request member Social Security numbers. It also explains that although failure to provide the number will not result in a loss of benefits, it may lead to adverse tax consequences due to misreporting.

WAC 415-02-100 has been revised to remove language referring to its 1984 effective date which is no longer needed.

New WACs in chapter 415-02 WAC have been drafted to conform to the requirements of RCW 41.50.065 and 41.50.137 which were passed in 1994 and 1996, respectively.

WAC 415-02-120 conforms to RCW 41.50.137 which authorizes the department to issue investigative subpoenas.

WAC 415-02-130 conforms to RCW 41.50.065 which requires that the department issue members annual statements providing retirement benefit information.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules apply to public employers and employees participating in the retirement systems administered by DRS. No private business are [is] affected by the rules, therefore, no small business [economic] impact statement is required.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. DRS is not one of the agencies that RCW 34.05.328 applies to. DRS does not opt to voluntarily bring itself within the coverage of that statute.

Hearing Location: Boardroom, 3rd Floor, 6835 Capitol Boulevard, Tumwater, WA, on March 10, 2000, at 1:00 p.m.

Assistance for Persons with Disabilities: Contact Elyette Weinstein by March 10, 2000, 11:00 a.m., TDD (360) 586-5450, or (360) 664-7298.

Submit Written Comments to: Elyette Weinstein, P.O. Box 48380, Olympia, WA 98504-8380, fax (360) 664-3618, by March 9, 2000.

Date of Intended Adoption: March 10, 2000.

January 24, 2000

Elyette M. Weinstein
Rules Coordinator

AMENDATORY SECTION (Amending Order 4, filed 7/27/77)

WAC 415-02-010 Identification. The department of retirement systems is a department of state government created by chapter 105, Laws of 1975-76 2nd ex. sess.

(1) The chief executive officer of the department of retirement systems is the director of retirement systems.

(2) ~~The department of retirement systems is divided, structurally, into two divisions. Each division is headed by an~~

~~assistant director answerable to the director. The two divisions are:~~

~~(a) The administrative services division which is headed by the assistant director for administrative services; and~~

~~(b) The program services management division which is headed by the assistant director for program services.~~

(3)) Members of the public may obtain information, make submittals or requests, or obtain copies of agency decisions by addressing their requests or submittals to the director of the Department of Retirement Systems at ~~((1025 East Union,)) P.O. Box 48380, Olympia, Washington, 98504.~~ Upon receipt of such a request or submittal, the director shall forward the same to the proper officer or employee of the department of retirement systems for an appropriate response.

((4)) (3) Members of the public who wish to inspect and/or copy public records maintained by the agency pursuant to chapter 42.17 RCW shall do so in accordance with the methods and procedures established in chapter 415-06 WAC ~~((415-06-010 through 415-06-110 of these rules)).~~

AMENDATORY SECTION (Amending Order 4, filed 7/27/77)

WAC 415-02-020 Authority. (1) The department ~~((of retirement systems))~~ is vested with the authority to administer, in accordance with chapter 105, Laws of 1975-76 2nd ex. sess., as now or hereafter amended, the Washington public employees' retirement system created by chapter 41.40 RCW, the Washington state teachers' retirement system created by chapters 41.32 and 41.34 RCW, the Washington school employees retirement system created by chapter 41.35 RCW, the Washington law enforcement officers' and fire fighters' retirement system, created by chapter ~~((41-25)) 41.26 RCW~~, the Washington state patrol retirement system, created by chapter 43.43 RCW, the Washington judicial retirement system, created by chapter 2.10 RCW, and the judges retirement fund created by chapter 2.12 RCW.

(2) ~~((The director of retirement systems and the state finance committee are empowered to provide for the investment of all funds of the Washington public employees' retirement systems, the Washington teachers' retirement system, the Washington law enforcement officers' and fire fighters' retirement system, the Washington state patrol retirement system, the Washington judicial retirement system, and the judges retirement fund, pursuant to RCW 43.84.150, with the approval of the respective boards of the retirement systems and funds above listed. The state finance committee will execute all such transactions:~~

(3)) The director is empowered to propose rules pursuant to RCW ~~((2.10.050, 2.10.070, 41.26.060, 41.32.160, 41.40.020, and 43.43.140, with the approval of the appropriate retirement board:~~

(4) ~~The director has no authority to perform functions vested in the various retirement boards by law with respect to applications for benefits paid upon either temporary or permanent disability, except to see that such staff assistance is provided by the department to the boards as may be required.~~

(5) ~~The director is required to evaluate all proposed legislation to be submitted by a retirement board as a depart-~~

PROPOSED

mental request. When such legislation is submitted to the director, he will obtain an initial actuarial estimate of the cost of each systems of the changes contained in the proposed legislation as if the legislation were applicable to each retirement system under his jurisdiction. The results of that estimate will then be transmitted to the retirement board which has requested the proposed legislation. That board may then modify its legislative proposal into final form for introduction as a bill on the basis of the estimate. The final form for the legislative proposal shall then be returned to the director who shall obtain a final actuarial estimate of the costs applied in the same manner as the initial estimate. On or before September 1, the director will transmit the final legislation proposal together with the actuarial estimates to the governor for consideration in his budget requests and shall also transmit the same to the chairman of the ways and means committees of the legislature)) 41.50.050.

AMENDATORY SECTION (Amending WSR 94-09-039, filed 4/19/94, effective 5/20/94)

WAC 415-02-030 Definitions. Unless the context requires otherwise, the following terms shall have the meanings established below:

(1) "Appeal" means the method by which a party secures a contested case hearing before ~~((a retirement board or the director subsequent to an initial determination by the board or director of the legal rights, duties or privileges of the specific party))~~ the department's presiding officer or hearings examiner under chapter 415-08 WAC.

(2) ~~((("Clerk" means the director, any assistant director of the department of retirement systems, or the confidential secretary to the director of retirement systems, when used in reference to requests, submittals, papers or pleadings which must be filed with the clerk of one of the retirement boards established by chapters 2.10, 41.26, 41.32, 41.40, and 43.43 RCW or the director of the department of retirement systems.~~

~~(3))~~ (3)) "Department" means the department of retirement systems.

~~((4))~~ (3) "Director" means the director of retirement systems.

~~((5) "Employee" under this chapter, means a worker who performs labor or services for a retirement systems employer under the control and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.~~

~~(6) "Employer" means the employer of a particular member.~~

~~(7) "Hearings examiner" or "presiding officer" means a person or persons appointed by a retirement board or the director to preside at a contested case hearing and matters related thereto.~~

~~(8))~~ (4) "Independent contractor" under this chapter, means a worker providing services under contract to a retirement system employer for remuneration who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3). ~~((Independent contractors are~~

~~ineligible to participate as members in any state-administered retirement system.~~

~~(9))~~ (5) "Member" means a person who is entitled to membership in one of the retirement systems created by chapters 2.10, 2.12, ~~((41.25))~~ 41.26, 41.32, 41.34, 41.35, 41.40, or 43.43 RCW.

~~((10))~~ (6) "Petition" means the method by which a party secures a review of an administrative determination ~~((by an assistant director))~~ prior to an appeal to the director. The department's petitions examiner performs the review under chapter 415.04 WAC.

~~((11) "Retirement board" means either the Washington judicial retirement board, the Washington law enforcement officers' and fire fighters' retirement board, the board of trustees of the Washington state teachers' retirement system, the Washington public employees' retirement board, or the Washington state patrol retirement board.~~

~~(12))~~ (7) "Plan 1" means the retirement plans in existence prior to the enactment of chapters 293, 294 and 295, Laws of 1977 ex. sess.

(8) "Plan 2" means the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess., and chapter 341, Laws of 1998.

(9) "Plan 3" means the retirement plans established by chapter 239, Laws of 1995 and chapter 341 Laws of 1998.

(10) "Retirement system employer" means "employer" as defined in RCW 41.26.030(2), 41.32.010(11), 41.34.010(5), 41.35.010(4), or 41.40.010(4), and a "city" or "cities" as defined in RCW 41.44.030(2).

~~((13))~~ (11) "Worker" means a person who performs services for a retirement system employer either as an employee or as an independent contractor.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-02-050 State Environmental Policy Act—Interface. The actions and activities of the department of retirement systems are not major actions significantly affecting the quality of the environment as described in chapter 43.21C RCW. All of the activities of the department are exempted from the threshold determination and environmental impact statement requirements of the State Environmental Policy Act (SEPA) by WAC ~~((197-10-175))~~ 197-11-875.

The responsible official of the agency for the purposes of SEPA is the director.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-02-060 Refund of contributions—Application. ~~((A request for a refund of contributions will not be honored if it was executed more than thirty days prior to its receipt by the department. A member may cancel the request for a refund of accumulated contributions at any time prior to the mailing of the warrant representing the refund of contributions.))~~ The department will automatically cancel a member's request for refund of defined benefit plan member contributions if the refund warrant is not cashed within one hundred eighty days of the date on the warrant. There will be no

earnings on returned contributions for the one hundred eighty-day period that funds were held for distribution to the member.

If the member does not cash a warrant for a distribution of defined contribution plan member contributions within one hundred eighty days of the date on the warrant, the contributions will be returned to the member's account with the same allocation as existed at the time of distribution. There will be no earnings on returned contributions for the one hundred eighty-day period that funds were held for distribution to the member.

AMENDATORY SECTION (Amending Order IV, filed 2/15/78)

WAC 415-02-080 Identification of members.

~~((Records of members of the retirement systems will be filed and identified in part by Social Security number. Each member of the systems shall be required to supply his or her Social Security number for such record-keeping purposes. Such disclosure shall be voluntary and shall only be used for record-keeping and identification purposes. Failure to supply a Social Security number shall not result in the loss of any benefits supplied by these systems.))~~ The department is authorized by the Internal Revenue Code to solicit Social Security numbers. The department uses Social Security numbers as the identifying number for the member file to ensure that any amounts paid from retirement accounts are properly reported to the Internal Revenue Service (IRS) as required by law. Each member of the retirement system is required to supply his or her Social Security number to the department. Failure to do so will not cause the member to lose benefits, but may result in misreporting to the IRS which can lead to adverse tax consequences for the member.

AMENDATORY SECTION (Amending Order V, filed 11/28/84)

WAC 415-02-100 Retiree insurance premium deductions for retirees—Enrollment requirements. ~~((Effective December 1, 1984))~~ The department ((of retirement systems)) will not accept requests by retirees of any of the systems which the department administers to deduct premiums for any kind of insurance from retirement allowances unless the provider has at least twenty-five such retirees enrolled in a withholding program. Any providers who now have less than twenty-five retirees in their deduction program will have twelve months in which to secure at least twenty-five participants. Failing to acquire the required minimum within twelve months will result in suspension of the deduction program for such provider. Any provider presently qualified who drops below twenty-five participants in the future will be suspended if they remain under twenty-five participants for ninety days.

NEW SECTION

WAC 415-02-120 Investigative subpoenas. (1) During the course of an audit or investigation, the department may issue a subpoena under RCW 41.50.137. The department

may direct the subpoena to any employer, member, person or entity (served party) who may possess information which is relevant and material to the audit or investigation to compel the party to:

(a) Appear and give testimony; and/or

(b) Produce any books, papers, correspondence, memoranda, or other documents, which the department deems relevant and material to the audit or investigation.

(2) The subpoena must:

(a) Identify "Washington state department of retirement systems" as the agency issuing the subpoena;

(b) Identify the name and address of the party subpoenaed;

(c) Specifically describe the information which is sought;

(d) State a reasonable time and place for the production of the information, but **no** later than twenty days after service; and

(e) Notify the served party that if the information is not produced, the department will apply to the superior court under RCW 34.05.588 for an appropriate order or other remedy.

(3) The subpoena may be served by:

(a) Delivering it personally; or

(b) Sending a copy by certified mail, return receipt requested.

NEW SECTION

WAC 415-02-130 Members receive retirement and account information annually. (1) DRS provides information in an annual statement to all members who are currently employed and are being reported. The statements include, but are not limited to, the following information:

(a) Service credit;

(b) Contributions; and

(c) Interest.

(2) The annual statement is based on information provided to the department by the employer as of a certain date. At the time the department compiles the annual statement, it may not have all the information necessary to make a final computation of any data reported. **Information in the annual statement is subject to correction.**

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 415-02-040

Definition of Plan II.

WAC 415-02-070

Application of particular rules to Plan II members.

PROPOSED

WSR 00-04-029
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed January 24, 2000, 3:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-12-078.

Title of Rule: WAC 458-20-135 Extracting natural products, 458-20-136 Manufacturing, processing for hire, fabricating, and 458-20-13601 Manufacturers and processors for hire—Sales and use tax exemption for machinery and equipment.

Purpose: To explain the B&O, retail sales, and use tax reporting responsibilities of extractors and manufacturers/processors for hire, and identify available tax exemptions.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.100, 82.04.110, 82.04.120, 82.08.02565, and 82.12.02565.

Summary: Rule 135 explains the tax-reporting responsibilities of extractors and clarifies when an extracting activity ends and a manufacturing activity begins. Rule 136 explains the tax-reporting responsibilities of manufacturers/processors for hire. Rule 136 identifies the special tax classifications that apply to specific manufacturing activities and the factors considered when determining if a person combining various items is a manufacturer. Rule 13601 explains the retail sales tax and use tax exemption provided by RCW 82.08.02565 and 82.12.02565 for certain machinery and equipment used directly in a manufacturing operation or research and development operation.

Reasons Supporting Proposal: Rules 135 and 136 are being revised to incorporate legislative changes that have occurred subsequent to when they were last revised, in particular chapter 211, Laws of 1999. Rule 13601 is being proposed to explain the retail sales and use tax exemption provided by RCW 82.08.02565 and 82.12.02565.

Name of Agency Personnel Responsible for Drafting: Leslie Cushman (Rule 13601), 711 Capitol Way South, Suite #303, Olympia, WA, (360) 664-0057 and Alan R. Lynn (Rules 135 and 136), 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-9040; 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: Rules 135 and 136 explain the B&O, retail sales, and use tax reporting responsibilities of extractors and manufacturers/processors for hire. They also identify tax exemptions that may apply to certain extractors and/or manufacturers/processors for hire. Persons extracting natural products often use the same extracted products in a manufacturing process. Rule 135 clarifies when the extracting activity ends and the manufacturing activity begins. Rule 136 identifies the special tax classifications that apply to specific manufactur-

ing activities, and activities that are specifically excluded from the definition of "to manufacture." Rule 136 also identifies the factors to be considered when determining if a person combining various items is a manufacturer.

Rule 13601 explains the retail sales tax and use tax exemption provided by RCW 82.08.02565 and 82.12.02565 for certain machinery and equipment used directly in a manufacturing operation or research and development operation. It provides pertinent definitions, and explains the legislative history of the exemption, the steps to determine whether the "useful life" threshold is satisfied, and the criteria used to determine whether the machinery and equipment is "used directly" in a qualifying operation.

Proposal Changes the Following Existing Rules: The department is proposing revisions to WAC 458-20-135 Extracting natural products and 458-20-136 Manufacturing, processing for hire, fabricating. Rules 135 and 136 are being revised to incorporate legislative changes that have occurred subsequent to when they were last revised, in particular chapter 211, Laws of 1999. Information now found in related excise tax advisories is also being incorporated to reduce the need for persons to look for multiple documents to determine tax-reporting responsibilities. Rule 13601 is being proposed to explain the retail sales and use tax exemption provided by RCW 82.08.02565 and 82.12.02565, including the effect of chapter 211, Laws of 1999, which in part clarified the exemption and was retroactive to 1995.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required because Rules 135, 136, and 13601 and the proposed amendments to Rules 135 and 136 do not impose any requirements or burdens upon small businesses that are not already required by statute.

RCW 34.05.328 does not apply to this rule adoption. This rule is an interpretive rule as defined in RCW 34.05.328.

Hearing Location: General Administration Building, 2nd Floor Conference Room #207, 210 West 11th and Columbia Streets, Olympia, WA, on March 8, 2000, 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: Alan R. Lynn, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail alanl@dor.wa.gov, by March 8, 2000.

Date of Intended Adoption: March 15, 2000.

January 24, 2000

Claire Hesselholt

Rules Manager

Legislation and Policy Division

AMENDATORY SECTION (Amending Order ET 86-7, filed 4/17/86)

WAC 458-20-135 Extracting natural products. ((The word "extractor" means every person who, from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting

with others for the necessary labor or mechanical services; for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural products, or takes fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others or persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession." (RCW 82.04.100.)

The following examples are illustrative of operations which are included within the extractive activity:

(1) Logging operations, including the bucking, yarding, and loading of timber or logs after felling, as well as the actual cutting or severance of trees. It includes other activities necessary and incidental to logging, such as logging road construction, slash burning, slashing, scarification, stream cleaning, miscellaneous cleaning, and trail work, where such activities are performed pursuant to a timber harvest operation. *Provided*, That persons performing such activities must identify in their business records the timber harvest operation of which their work is a part.

(2) Mining and quarrying operations, including the activities incidental to the preparation of the products for market, such as screening, sorting, washing, crushing, etc.

(3) Fishing operations, including the taking of any fish, or the taking, cultivating, or raising of shellfish, or other sea or inland water foods or products (whether on publicly or privately owned beds, and whether planted and cultivated or not) for sale or commercial use. It includes the removal of the meat from the shell, and the cleaning and icing of fish or sea products by the person catching or taking them. It does not include cultivating or raising fish entirely within confined rearing areas under RCW 82.04.100.

Business and Occupation Tax

Extracting local sales. Persons who extract products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification retailing and those who sell such products at wholesale in this state are taxable under the classification wholesaling all others. Persons taxable under the classification retailing and wholesaling all others are not taxable under the classification extracting with respect to the extracting of products so sold within this state.

Extracting interstate or foreign sales. Persons who extract products in this state and sell the same in interstate or foreign commerce are taxable under the classification extracting upon the value of the products so sold, and are not taxable under retailing or wholesaling all others in respect to such sales. (See also WAC 458-20-193.)

Extracting for commercial use. Persons who extract products in this state and use the same as raw materials or ingredients of articles which they manufacture for sale are not taxable under extracting. (For tax liability of such persons on the sale of manufactured products see WAC 458-20-136, manufacturing, processing for hire, fabricating.)

Persons who extract products in this state for any other commercial or industrial use are taxable under extracting on the value of products extracted and so used. (See WAC 458-20-134 for definition of commercial or industrial use.)

Extracting for others. Persons performing under contract, either as prime or subcontractors, the necessary labor or mechanical services for others who are engaged in the business as extractors, are taxable under the extracting for hire classification of the business and occupation tax upon their gross income from such service. If the contract includes the hauling of the products extracted over public roads, such persons are also taxable under the motor transportation classification of the public utility tax upon that portion of their gross income properly attributable to such hauling. However, the hauling for hire of logs or other forest products exclusively upon private roads is taxable under the service classification of the business and occupation tax upon the gross income received from such hauling. (See WAC 458-20-180.)

Forest Excise Tax

In addition to all other taxes, a person engaged in business as a harvester of timber is subject to the forest excise tax levied by chapter 84.33 RCW. The word "harvester" means every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

See chapter 458-40 WAC for detailed provisions, procedures, and other definitions.

Retail Sales Tax

The retail sales tax applies upon all sales of extracted products made at retail by the extractor thereof, except as provided by WAC 458-20-244, Food products.

Use Tax

Persons constructing logging roads pursuant to timber harvest operations are subject to use tax on all materials used in such construction, except for materials on which sales tax was paid at the time of purchase. (1) **Introduction.** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to persons extracting natural products. Persons extracting natural products often use the same extracted products in a manufacturing process. The rule provides guidance for determining when an extracting activity ends and the manufacturing activity begins. Persons performing activities related to timber harvest operations should refer to WAC 458-20-13501 (Timber harvest operations). Persons engaged in a manufacturing activity should also refer to WAC 458-20-136 (Manufacturing, processing for hire, fabricating) and 458-20-13601 (Manufacturers and processors for hire—Sales and use tax exemptions for machinery and equipment).

In addition to all other taxes, commercial fishermen may be subject to the enhanced fish excise tax levied by chapter 82.27 RCW (Tax on enhanced food fish).

(2) **Extracting activities.** RCW 82.04.100 defines the term "extractor" to mean every person who, from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral, or other natural resource product. The term includes a person who fells, cuts, or takes timber, Christmas trees other than plantation Christmas trees, or other natural products. It also includes any person who takes fish, shellfish, or other sea or inland water foods or products.

(a) The term "extractor" does not include:

(i) Persons performing under contract the necessary labor or mechanical services for others;

(ii) Persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession;

(iii) Persons who fell, cut, or take plantation Christmas trees from the person's own land or from land in which the person has a present right of possession; or

(iv) Persons cultivating or raising shellfish or any other cultural aquatic product as defined in RCW 15.85.020 on the person's own land or on land in which the person has a present right of possession. This exclusion from the definition of "extractor" is because these persons qualify as farmers under RCW 82.04.213. (Persons identified under subsection (2)(a)(ii) and (iii) are also considered farmers.)

(b) An extractor may subsequently take an extracted product and use it as a raw material in a manufacturing process. The following examples explain when an extracting process ends and a manufacturing process begins for various situations. These examples should be used only as a general guide. Similar determinations for other situations can be made only after a review of all of the facts and circumstances.

(i) Mining and quarrying operations are extracting activities, and generally include the screening, sorting, piling, and washing of rock, sand, stone, or gravel.

The crushing and/or blending of rock, sand, stone, or gravel are manufacturing activities. Screening, sorting, piling, or washing of the material, when the activity takes place in conjunction with crushing or blending at the site where the materials are taken or produced, is considered a part of the manufacturing activity if it takes place after the first screen. If there is no separate first screen, only those activities subsequent to the materials being deposited into the screen are considered manufacturing activities.

(ii) Commercial fishing operations, including the taking of any fish in Washington waters (within the statutory limits of the state of Washington) and the taking of shellfish or other sea or inland water foods or products, are extracting activities. The removal of meat from the shell and the icing of fish or sea products by the person catching or taking them are extracting activities. As explained in subsection (2)(a), a person taking fish, shellfish, or other sea or inland water food or product cultivated or raised on the person's own land or on land in which the person has a present right of possession is considered a farmer. RCW 82.04.213.

The filleting, steaking, or cleaning (removal of the head, fins, or viscera) of fish are manufacturing activities. The cooking of fish or seafood is also a manufacturing activity.

(3) **Tax-reporting responsibilities for income received by extractors.** Persons who extract natural products in this state are subject to the extracting B&O tax upon the value of the products. (See WAC 458-20-112 regarding "value of products.") Extractors who sell the products at retail or wholesale in this state are subject to either the retailing or wholesaling B&O tax, as the case may be. In such cases, the extractor must report under both the "production" (extracting) and "selling" (wholesaling or retailing) classifications of the B&O tax, and claim a tax credit under the multiple activities tax credit (MATC). See also WAC 458-20-19301 (Multiple activities tax credits) for a more detailed explanation of the MATC reporting requirements.

(a) Persons who extract products, use these extracted products in a manufacturing process, and then sell the products all within Washington are subject to both "production" taxes (extracting and manufacturing) and the "selling" tax (wholesaling or retailing), and may claim the appropriate credits under the MATC. (See also WAC 458-20-136 on manufacturing.)

For example, Company quarries rock (an extracting activity), crushes and blends the rock (a manufacturing activity), and sells the resulting product at wholesale. The taxable value of the extracted rock is \$50,000 (the amount subject to the extracting B&O tax). The taxable value of the crushed and blended rock is \$140,000 (the amount subject to the manufacturing B&O tax). The crushed and blended rock is sold for \$140,000 (the amount subject to the wholesaling B&O tax). Under the MATC, Company should report \$50,000 subject to the extracting B&O tax, \$140,000 subject to the manufacturing B&O tax, and \$140,000 subject to the wholesaling B&O tax. Company should then claim the appropriate MATC per WAC 458-20-19301.

(b) An extractor making retail sales must collect and remit retail sales tax on all sales to consumers, unless the sale is exempt by law (e.g., see WAC 458-20-244 regarding sales of certain food products). Extractors making wholesale sales must obtain resale certificates from their customers to document the wholesale nature of any transaction. (Refer to WAC 458-20-102 on resale certificates.)

(4) **Tax-reporting responsibilities for income received by extractors for hire.** Persons performing extracting activities for extractors are subject to the extracting for hire B&O tax upon their gross income from those services.

For example, a person removing ore, waste, or overburden at a mining pit for the operator of the mining operation is an extractor for hire. Likewise, a person drilling to locate or provide access to a satisfactory grade of ore at the mining pit for the operator is also an extractor for hire. The gross income derived from these activities is subject to the extracting for hire tax classification.

(5) **Mining or mineral rights.** Royalties or charges in the nature of royalties for granting another the privilege or right to remove minerals, rock, sand, or other natural product are subject to the service and other activities B&O tax. The special B&O tax rate provided by RCW 82.04.2907 does not

apply because this statute specifically excludes compensation received for any natural product. Refer also to chapters 82.45 RCW and 458-61 WAC for more information regarding the sale of mineral rights and the real estate excise tax.

Income derived from the sale or rental of real property, whether designated as royalties or another term, is exempt of the B&O tax.

(6) Tax liability with respect to purchases of equipment or supplies and property extracted and/or manufactured for commercial or industrial use. The retail sales tax applies to all purchases of equipment, component parts of equipment, and supplies by persons engaging in extracting or extracting for hire activities unless a specific exemption applies. If the seller fails to collect the appropriate retail sales tax, the buyer is required to remit the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax directly to the department.

(a) RCW 82.08.02565 and 82.12.02565 provide retail sales and use tax exemptions for certain machinery and equipment used by manufacturers. While this exemption does not extend to extractors, persons engaged in both extracting and manufacturing activities should refer to WAC 458-20-13601 for an explanation of how these exemptions may apply to them.

(b) Persons manufacturing tangible personal property for commercial or industrial use are subject to both the manufacturing B&O and use taxes upon the value of the property manufactured, unless a specific exemption applies. (See also WAC 458-20-134 on commercial or industrial use.)

If the person also extracts materials used in the manufacturing process, the extracting B&O tax is due on the value of the extracted materials and a MATC may be taken. For example, Quarry extracts rock, crushes the rock into desired size, and then uses the crushed rock in its parking lot. The use of the crushed rock by Quarry in its parking lot is a commercial or industrial use. Quarry is subject to the extracting and manufacturing B&O taxes and may claim a MATC. Quarry is also responsible for remitting use tax on the value of the crushed rock applied to the parking lot.

AMENDATORY SECTION (Amending Order 88-7, filed 10/7/88)

WAC 458-20-136 Manufacturing, processing for hire, fabricating. ((1) Definitions. "The term 'to manufacture' embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles." (RCW 82.04.120.) It means the business of producing articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving these matters new forms, qualities, properties, or combinations. It includes such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, curing, aging, canning, etc. It includes also the preparing, packaging and freezing of fresh fruits, vegetables, fish, meats and other food

products, the making of custom made suits, dresses, coats, awnings, blinds, boats, curtains, draperies, rugs, and tanks; and other articles constructed or made to order, and the curing of animal hides and food products.

(2) The word "manufacturer" means every person who, from the person's own materials or ingredients manufactures for sale, or for commercial or industrial use any articles, substance or commodity either directly, or by contracting with others for the necessary labor or mechanical services.

(3) However, a nonresident of the state of Washington who owns materials processed for hire in this state is not deemed to be a manufacturer because of such processing. Further, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

(4) The term "to manufacture" does not include conditioning of seed for use in planting or activities which consist of cutting, grading, or ice glazing of seafood which has been cooked, frozen, or canned outside this state; the mere cleaning and freezing of whole fish; or the repairing and reconditioning of tangible personal property for others.

(5) The term "processing for hire" means the performance of labor and mechanical services upon materials belonging to others so that as a result a new, different or useful article of tangible personal property is produced for sale or commercial or industrial use. Thus, a processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon that person's own materials.

(6) Persons who both manufacture and sell those products in this state must report their gross receipts under both the manufacturing and retailing or wholesaling classifications. A credit may then be taken against the selling tax in the amount of the manufacturing tax reported. (See also WAC 458-20-19301.)

(7) Manufacturing—interstate or foreign sales. Persons who manufacture products in this state and sell the same in interstate or foreign commerce are taxable under the classification manufacturing upon the value of the products so sold, and are not taxable under retailing or wholesaling all others in respect to such sales. (See also WAC 458-20-193A.) A credit may be applicable if a gross receipts tax is paid on the selling activity to another state. (See also WAC 458-20-19301.)

(8) Business and occupation tax—hops. The business and occupation tax shall not apply to amounts received by hop growers or dealers for hops which are shipped outside the state of Washington for first use, if those hops have been processed into extract, pellets, or powder in this state. Amounts charged by a processor or warehouse for processing or warehousing, however, are not exempt.

(9) Manufacturing—special classifications. The law provides several special classifications and rates for activities which constitute "manufacturing" as defined in this rule. These include manufacturing wheat into flour, barley into pearl barley, soybeans into soybean oil, or sunflower seeds into sunflower oil (RCW 82.04.260(2)); splitting or processing dried peas (RCW 82.04.260(3)); manufacturing seafood products which remain in a raw, raw frozen, or raw salted

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state (RCW 82.04.260(4)); manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables (RCW 82.04.260(5)); and manufacturing nuclear fuel assemblies (RCW 82.04.260(9)). In all such cases the principles set forth in subsections (6) and (7) of this section concerning multiple tax classifications and credit provisions are also applicable.

(10) The special classification and rate for slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale (RCW 82.04.260(7)) combines manufacturing and nonmanufacturing activities into a single taxable business activity. For persons who break, slaughter, and/or process meat products for others, the statutory classification and rate are applicable to the value of products so processed and delivered to customers within this state and to interstate or foreign customers. The mere wholesale selling of perishable meat products not manufactured by the vendor is subject to the statutory classification and rate only upon gross receipts from sales within this state. Interstate or foreign sales are deductible from gross proceeds of sales. (See WAC 458-20-193A.)

(11) Manufacturing for commercial use. Persons who manufacture products in this state for their own commercial or industrial use are taxable under the classification manufacturing on the value of the products so manufactured and used. (See WAC 458-20-134 for definition of commercial or industrial use.)

(12) Processing for hire. Persons processing for hire for consumers or for persons other than consumers are taxable under the processing for hire classification upon the total charge made therefor.

(13) Materials furnished in part by customer. In some instances, the persons furnishing the labor and mechanical services undertakes to produce a new article, substance, or commodity from materials or ingredients furnished in part by them and in part by the customer. In such instances, tax liability is as follows:

(a) The persons furnishing the labor and mechanical services will be presumed to be the manufacturer if the value of the materials or ingredients furnished by them is equal to or exceeds 20% of the total value of all materials or ingredients which become a part of the finished product.

(b) If the person furnishing the labor and mechanical services furnishes materials constituting less than 20% of the value of all of the materials which become a part of the finished product, such person will be presumed to be processing for hire. The person for whom the work is performed is the manufacturer in that situation, and will be taxable as such.

(c) In cases where the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, before processing, 20% or more in value of the materials from which the finished product is made, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and taxable as a manufacturer.

(14) Retail sales tax. Persons taxable as engaging in the business of manufacturing and selling at retail any of the products manufactured and persons manufacturing, fabricating, or processing for hire tangible personal property for consumers shall collect the retail sales tax upon the total charge made to their customers.

(15) Sales to processors for hire and to manufacturers of articles of tangible personal property which do not become an ingredient or component part of a new article produced, or are not chemicals used in processing the same, are retail sales, and the retail sales tax must be collected thereon. (However, see WAC 458-20-113 and 458-20-134 for certain express exemptions.)

(16) Use tax. Manufacturers are taxable under the use tax upon the use of articles manufactured by them for their own use in this state. (See WAC 458-20-113 and 458-20-134 for certain express exemptions.)

(17) See WAC 458-20-244 for sales and use tax on food products.)) (1) **Introduction.** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to manufacturers. It identifies the special tax classifications and rates that apply to specific manufacturing activities. The law provides a retail sales and use tax exemption for certain machinery and equipment used by manufacturers. Refer to RCW 82.08.02565, 82.12.02565, and WAC 458-20-13601 (Manufacturers and processors for hire—Sales and use tax exemption for machinery and equipment) for more information regarding this exemption. Persons engaging in both extracting and manufacturing activities should also refer to WAC 458-20-135 (Extracting natural products) and 458-20-13501 (Timber harvest operations).

(2) **Manufacturing activities.** RCW 82.04.120 explains that the phrase "to manufacture" embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or articles of tangible personal property is produced for sale or commercial or industrial use. The phrase includes the production or fabrication of special-made or custom-made articles.

(a) "To manufacture" includes, but is not limited to:

(i) The production or fabrication of dental appliances, devices, restorations, substitutes, or other dental laboratory products by a dental laboratory or dental technician, effective October 1, 1998 (chapter 168, Laws of 1998);

(ii) The cutting, delimiting, and measuring of felled, cut, or taken trees;

(iii) The crushing and/or blending of rock, sand, stone, gravel, or ore; and

(iv) The cleaning (removal of the head, fins, or viscera) of fish.

(b) "To manufacture" does not include:

(i) The conditioning of seed for use in planting;

(ii) The cubing of hay or alfalfa;

(iii) The growing, harvesting, or producing of agricultural products;

(iv) The cutting, grading, or ice glazing of seafood which has been cooked, frozen, or canned outside this state;

(v) The packing of agricultural products, including sorting, washing, rinsing, grading, waxing, treating with fungicide, packaging, chilling, or placing in controlled atmospheric storage; and

(vi) The repairing and reconditioning of tangible personal property for others.

(3) **Manufacturers and processors for hire.** RCW 82.04.110 defines "manufacturer" to mean every person who,

either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from his or her own materials or ingredients any articles, substances, or commodities. However, a nonresident of the state of Washington who is the owner of materials processed for it in this state by a processor for hire is not deemed to be a manufacturer in this state because of that processing. Additionally, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

(a) The term "processor for hire" means a person who performs labor and mechanical services upon property belonging to others so that as a result a new, different, or useful article of tangible personal property is produced for sale or commercial or industrial use. Thus, a processor for hire is any person who would be a manufacturer if that person were performing the labor and mechanical services upon his or her own materials.

(b) If a particular activity is excluded from the definition of "to manufacture," a person performing the labor and mechanical services upon materials owned by another is not a processor for hire. For example, the cutting, grading, or ice glazing of seafood that has been cooked, frozen, or canned outside this state is excluded from the definition of "to manufacture." Because of this exclusion, a person who performs these activities on seafood belonging to others is not a "processor for hire."

(c) A person who produces aluminum master alloys, regardless of the portion of the aluminum provided by that person's customer, is considered a "processor for hire." RCW 82.04.110. For the purpose of this specific provision, the term "aluminum master alloy" means an alloy registered with the Aluminum Association as a grain refiner or a hardener alloy using the American National Standards Institute designating system H35.3.

(d) In some instances, a person furnishing the labor and mechanical services undertakes to produce an article, substance, or commodity from materials or ingredients furnished in part by the person and in part by the customer. Depending on the circumstances, this person will either be considered a manufacturer or a processor for hire.

(i) If the person furnishing the labor and mechanical services furnishes materials constituting less than twenty percent of the value of all of the materials or ingredients which become a part of the produced product, that person will be presumed to be processing for hire.

(ii) The person furnishing the labor and mechanical services will be presumed to be a manufacturer if the value of the materials or ingredients furnished by the person is equal to or greater than twenty percent of the total value of all materials or ingredients which become a part of the produced product.

(iii) If the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, before processing, twenty percent or more in value of the materials or ingredients from which the product is produced, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and considered a manufacturer.

(e) There are occasions where a manufacturing facility and ingredients used in the manufacturing process are owned by one person, while another person performs the actual manufacturing activity. The person operating the facility and performing the manufacturing activity is a processor for hire. The owner of the facility and ingredients is the manufacturer.

(4) Tax-reporting responsibilities for income received by manufacturers and processors for hire. Persons who manufacture products in this state are subject to the manufacturing B&O tax upon the value of the products, including by-products (see also WAC 458-20-112 regarding "value of products"), unless the activity qualifies for one of the special tax rates discussed in subsection (5), below. See also WAC 458-20-193 (Inbound and outbound interstate sales of tangible personal property).

For example, Corporation A stains door panels that it purchases. Corporation A also affixes hinges, guide wheels, and pivots to unstained door panels. Corporation B shears steel sheets to dimension, and slits steel coils to customer's requirements. The resulting products are sold and delivered to out-of-state customers. Corporation A and Corporation B are subject to the manufacturing B&O tax upon the value of these manufactured products. These manufacturing activities take place in Washington, even though the manufactured product is delivered out-of-state. A credit may be available if a gross receipts tax is paid on the selling activity to another state. (See also WAC 458-20-19301 on multiple activities tax credits.)

(a) Manufacturers who sell their products at retail or wholesale in this state are also subject to either the retailing or wholesaling B&O tax, as the case may be. In such cases, the manufacturer must report under both the "production" (manufacturing) and "selling" (wholesaling or retailing) classifications of the B&O tax, and claim a tax credit under the multiple activities tax credit (MATC). See also WAC 458-20-19301 for a more detailed explanation of the MATC reporting requirements.

For example, Incorporated purchases raw fish that it filets and/or steaks. The resulting product is then sold at wholesale in its raw form to customers located in Washington. Incorporated is subject to both the manufacturing raw seafood B&O tax upon the value of the manufactured product, and the wholesaling B&O tax upon the gross proceeds of sale. Incorporated is entitled to claim a tax credit under the MATC.

(b) Processors for hire are subject to the processing for hire B&O tax upon the total charge made to those services, including any charge for materials furnished by the processor. The B&O tax applies whether the resulting product is delivered to the customer within or outside this state.

(c) The measure of tax for manufacturers and processors for hire with respect to "cost-plus" or "time and material" contracts includes the amount of profit or fee above cost received, plus the reimbursements or prepayments received on account of materials and supplies, labor costs, taxes paid, payments made to subcontractors, and all other costs and expenses incurred by the manufacturer or processor for hire.

(d) A manufacturing B&O tax exemption is available for the cleaning of fish, if the cleaning activities are limited to the

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removal of the head, fins, or viscera from fresh fish without further processing other than freezing. RCW 82.04.2403. Processors for hire performing these cleaning activities remain subject to the processing for hire B&O tax.

(e) Amounts received by hop growers or dealers for hops shipped outside the state of Washington for first use, even though the hops have been processed into extract, pellets, or powder in this state are exempt from the B&O tax. RCW 82.04.337. However, a processor for hire with respect to hops is not exempt on amounts charged for processing these products.

(f) Manufacturers and processors for hire making retail sales must collect and remit retail sales tax on all sales to consumers, unless the sale is exempt by law (e.g., see WAC 458-20-244 regarding sales of certain food products). A manufacturer or processor for hire making wholesale sales must obtain resale certificates from the customers to document the wholesale nature of any transaction. (Refer to WAC 458-20-102 on resale certificates.)

(5) Manufacturing—Special tax rates/classifications. RCW 82.04.260 provides several special B&O tax rates/classifications for manufacturers engaging in certain manufacturing activities. In all such cases the principles set forth in subsection (4) of this rule concerning multiple activities and the resulting credit provisions are also applicable.

(a) Special tax classifications/rates are provided for the activities of:

(i) Manufacturing wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, meal, or canola byproducts, or sunflower seeds into sunflower oil;

(ii) Splitting or processing dried peas;

(iii) Manufacturing seafood products; which remain in a raw, raw frozen, or raw salted state;

(iv) Manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables;

(v) Slaughtering, breaking, and/or processing perishable meat products and/or selling the same at wholesale and not at retail; and

(vi) Manufacturing nuclear fuel assemblies.

(6) Repairing and/or refurbishing distinguished from manufacturing. The term "to manufacture" does not include the repair or refurbishing of tangible personal property. To be considered "manufacturing," the application of labor or skill to materials must result in a "new, different, or useful article." If the activity merely restores an existing article of tangible personal property to its original utility, the activity is considered a repair or refurbishing of that property. (See WAC 458-20-173 for tax-reporting information on repairs.)

(a) In making a determination whether an activity is manufacturing as opposed to a repair or reconditioning activity, consideration is given to a variety of factors including, but not limited to:

(i) Whether the activity merely restores or prolongs the useful life of the article;

(ii) Whether the activity significantly enhances the article's basic qualities, properties, or functional nature; and

(iii) Whether the activity is so extensive that a new, different, or useful article results.

(b) The following example illustrates the distinction between a manufacturing activity resulting in a new, different, or useful article, and the mere repair or refurbishment of an existing article. This example should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances. In cases of uncertainty, persons should contact the department for a ruling.

(i) Corporation rebuilds engine cores. When received, each core is assigned an individual identification number and disassembled. The cylinder head, connecting rods, crankshaft, valves, springs, nuts, and bolts are all removed and retained for reassembly into the same engine core. Unusable components are discarded. The block is then baked to burn off dirt and impurities, then blasted to remove any residue. The cylinder walls are rebored because of wear and tear. The retained components are cleaned, and if needed straightened and/or reground. Corporation then reassembles the cores, replacing the pistons, gaskets, timing gears, crankshaft bearings, and oil pumps with new parts. The components retained from the original engine core are incorporated only into that same core.

(ii) Corporation is under these circumstances not engaging in a manufacturing activity. The engine cores are restored to their original condition, albeit with a slightly larger displacement because of wear and tear. The cores have retained their original functional nature as they run with approximately the same efficiency and horsepower. The rebuilding of these cores is not so extensive as to result in a new, different, or useful article. Each engine core has retained its identity because all reusable components of the original core are reassembled in the same core. Corporation has taken an existing article and extended its useful life.

(7) Combining and/or assembly of products to achieve a special purpose as manufacturing. The physical assembly of products from various components is manufacturing because it results in a "new, different, or useful" product, even if the cost of the assembly activity is minimal when compared with the cost of the components. For example, the bolting of a motor to a pump, whether bolted directly or by using a coupling, is a manufacturing activity. Once physically joined, the resulting product is capable of performing a pumping function that the separate components cannot.

(a) In some cases the assembly may consist solely of combining parts from various suppliers to create an entirely different product that is sold as a kit for assembly by the purchaser. In these situations, the manufacturing B&O tax applies even if the person combining the parts does not completely assemble the components, but sells them as a package. For example, a person who purchases component parts from various suppliers to create a wheelbarrow, which will be sold in a "kit" or "knock-down" condition with some assembly required by purchaser, is a manufacturer. The purchaser of the wheelbarrow kit is not a manufacturer, however, even though the purchaser must attach the handles and wheel.

(b) The department considers various factors in determining if a person combining various items into a single package is engaged in a manufacturing activity. Any single one of the following factors is not considered conclusive evi-

dence of a manufacturing activity, though the presence of one or more of these factors raises a presumption that a manufacturing activity is being performed:

(i) The ingredients are purchased from various suppliers;
 (ii) The person combining the ingredients attaches his or her own label to the resulting product;

(iii) The ingredients are purchased in bulk and broken down to smaller sizes;

(iv) The combined product is marketed at a substantially different value from the selling price of the individual components; and

(v) The person combining the items does not sell the individual items except within the package.

(c) The following examples should be used only as a general guide. The specific facts and circumstances of each situation must be carefully examined to determine if the combining of ingredients is a manufacturing activity or merely a packaging or marketing activity. In cases of uncertainty, persons combining items into special purpose packages should contact the department for a ruling.

(i) Combining prepackaged food products and gift items into a wicker basket for sale as a gift basket is not a manufacturing activity when:

(A) The products combined in the basket retain their original packaging;

(B) The person does not attach his or her own labels to the components or the combined basket;

(C) The person maintains an inventory for sale of the individual components and does sell these items in this manner as well as the combined baskets.

(ii) Combining bulk food products and gift items into a wicker basket for sale as a gift basket is a manufacturing activity when:

(A) The bulk food products purchased by the taxpayer are broken into smaller quantities; and

(B) The taxpayer attaches its own labels to the combined basket.

(iii) Combining components into a kit for sale is not a manufacturing activity when:

(A) All components are conceived, designed, and specifically manufactured by and at the person's direction to be used with each other;

(B) The person's label is attached to or imprinted upon the components by supplier;

(C) The person packages the components with no further assembly, connection, reconfiguration, change, or processing.

(8) Tax liability with respect to purchases of equipment or supplies and property manufactured for commercial or industrial use. The retail sales tax applies to purchases of tangible personal property by manufacturers and processors for hire unless the property becomes an ingredient or component part of a new article produced for sale, or is a chemical used in the processing of an article for sale. If the seller fails to collect the appropriate retail sales tax, the buyer is required to remit the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax directly to the department. Refer to WAC 458-20-113 for additional information

about what qualifies as an ingredient or component or a chemical used in processing.

(a) RCW 82.08.02565 and 82.12.02565 provide a retail sales and use tax exemption for certain machinery and equipment used by manufacturers and/or processors for hire. Refer to WAC 458-20-13601 for additional information regarding how these exemptions apply.

(b) Persons manufacturing tangible personal property for commercial or industrial use are subject to both the manufacturing B&O and use taxes upon the value of the property manufactured, unless a specific exemption applies. (See also WAC 458-20-134 on commercial or industrial use.) Persons who also extract the product used as an ingredient in a manufacturing process should refer to WAC 458-20-135 for additional information regarding their tax-reporting responsibilities.

NEW SECTION

WAC 458-20-13601 Manufacturers and processors for hire—Sales and use tax exemption for machinery and equipment. (1) **Introduction.** This rule explains the retail sales and use tax exemption provided by RCW 82.08.02565 and 82.12.02565 for sales to or use by manufacturers or processors for hire of machinery and equipment (M&E) used directly in a manufacturing operation or research and development operation. This rule explains the requirements that must be met to substantiate a claim of exemption. For information regarding the distressed area sales and use tax deferral refer to WAC 458-20-24001 and chapter 82.60 RCW. For the high technology business sales and use tax deferral refer to chapter 82.63 RCW.

On and after July 25, 1999, a person engaged in testing for manufacturers or processors for hire is eligible to take the exemption, subject to the requirements explained below.

(2) **Legislative history.** The manufacturing machinery and equipment exemption, codified as RCW 82.08.02565 and 82.12.02565, became effective July 1, 1995. The exemption has since been the subject of a number of changes: See 1995 1st sp.s. c 3, 1996 c 173, 1996 c 247, 1998 c 330, and 1999 c 211. The 1995 legislation covered installation charges for qualifying machinery and equipment as well as replacement parts that increased the productivity, improved efficiency, or extended the useful life of the machinery and equipment.

(a) In 1996, the exemption was extended to include charges for repairing, cleaning, altering, or improving the machinery and equipment. The same act also revised the definition of "machinery and equipment" to include tangible personal property that becomes an ingredient or component of the machinery and equipment, including repair and replacement parts. A second act extended the exemption to research and development engaged in by manufacturers or processors for hire. Both acts took effect June 6, 1996.

(b) In 1998, the duplicate certificate and annual reporting requirements were eliminated, effective June 11, 1998.

(c) In 1999, the 1995 legislation was clarified retroactively by ESHB 1887, chapter 211, Laws of 1999, to include certain logging and mining activities, segmented manufactur-

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ing, and off-site testing by manufacturers, and to explain that hand-powered tools were excluded. On July 25, 1999, the exemption was extended on a prospective basis to persons who perform third-party testing for manufacturers or processors for hire.

(3) **Definitions.** For purposes of the manufacturing machinery and equipment tax exemption the following definitions will apply.

(a) "Cogeneration" means the simultaneous generation of electrical energy and low-grade heat from the same fuel. See RCW 82.08.02565.

(b) "Device" means an item that is not attached to the building or site. Examples of devices are: Forklifts, chain-saws, air compressors, clamps, free standing shelving, software, ladders, wheelbarrows, and pulleys.

(c) "Industrial fixture" means an item attached to a building or to land. Fixtures become part of the real estate to which they are attached and upon attachment are classified as real property, not personal property. Examples of "industrial fixtures" are fuel oil lines, boilers, craneways, and certain concrete slabs.

(d) "Machinery and equipment" means industrial fixtures, devices, and support facilities, and tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts. "Machinery and equipment" includes pollution control equipment installed and used in a qualifying operation to prevent air pollution, water pollution, or contamination that might otherwise result from the operation. "M&E" means "machinery and equipment."

(e) "Manufacturer" has the same meaning as provided in chapter 82.04 RCW.

(f) "Manufacturing" has the same meaning as "to manufacture" in chapter 82.04 RCW.

(g) "Manufacturing operation" means the manufacturing of articles, substances, or commodities for sale as tangible personal property. A manufacturing operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the processed material leaves the manufacturing site. The operation includes storage of raw materials at the site, the storage of in-process materials at the site, and the storage of the processed material at the site. The manufacturing operation is defined in terms of a process occurring at a location. To be eligible as a qualifying use of M&E, the use must take place within the manufacturing operation, unless specifically excepted by law. Storage of raw material or other tangible personal property, packaging of tangible personal property, and other activities that potentially qualify under the "used directly" criteria, and that do not constitute manufacturing in and of themselves, are not within the scope of the exemption unless they take place at a manufacturing site. The statute specifically allows testing to occur away from the site.

The term "manufacturing operation" also includes that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part. The term does not include the production of electricity by a light and power business as defined in RCW 82.16.010 or the prepara-

tion of food products on the premises of a person selling food products at retail.

(i) Neither duration or temporary nature of the manufacturing activity nor mobility of the equipment determine whether a manufacturing operation exists. For example, operations using portable saw mills or rock crushing equipment are considered "manufacturing operations" if the activity in which the person is engaged is manufacturing. Rock crushing equipment that deposits material onto a roadway is not used in a manufacturing operation because this is a part of the constructing activity, not a manufacturing activity. Likewise, a portable cement mixer at a construction site is not used in a manufacturing operation because the activity is constructing, not manufacturing. Other portable equipment used in nonmanufacturing activities, such as continuous gutter trucks or trucks designed to deliver and combine aggregate, or specialized carpentry tools, do not qualify for the same reasons.

(ii) Manufacturing tangible personal property for sale can occur in stages, taking place at more than one manufacturing site. For example, if a taxpayer processes pulp from wood at one site, and transfers the resulting pulp to another site that further manufactures the product into paper, two separate manufacturing operations exist. The end product of the manufacturing activity must result in an article, substance, or commodity for sale.

(h) "Processor for hire" has the same meaning as used in chapter 82.04 RCW and as explained in WAC 458-20-136.

(i) "Qualifying operation" means a manufacturing operation, a research and development operation, or, as of July 25, 1999, a testing operation.

(j) "Research and development operation" means engaging in research and development as defined in RCW 82.63.010 by a manufacturer or processor for hire. RCW 82.63.010 defines "research and development" to mean: Activities performed to discover technological information, and technical and nonroutine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the Federal Food and Drug Administration under chapter 21, C.F.R., as amended. The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(k) "Sale" has the same meaning as "sale" in chapter 82.08 RCW, which includes by reference RCW 82.04.040. RCW 82.04.040 includes by reference the definition of "retail sale" in RCW 82.04.050. "Sale" includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price.

(l) "Site" means the location at which the manufacturing or testing takes place.

(m) "Support facility" means a part of a building, or a structure or improvement, used to contain or steady an industrial fixture or device. A support facility must be specially designed and necessary for the proper functioning of the industrial fixture or device and must perform a function beyond being a building or a structure or an improvement. It must have a function relative to an industrial fixture or a device. To determine if some portion of a building is a support facility, the parts of the building are examined. For example, a highly specialized structure, like a vibration reduction slab under a microchip clean room, is a support facility. Without the slab, the delicate instruments in the clean room would not function properly. The ceiling and walls of the clean room are not support facilities if they only serve to define the space and do not have a function relative to an industrial fixture or a device.

(n) "Tangible personal property" has its ordinary meaning.

(o) "Testing" means activities performed to establish or determine the properties, qualities, and limitations of tangible personal property.

(p) "Testing operation" means the testing of tangible personal property for a manufacturer or processor for hire. A testing operation begins at the point where the tangible personal property enters the testing site and ends at the point where the tangible personal property leaves the testing site. The term also includes that portion of a cogeneration project that is used to generate power for consumption within the site of which the cogeneration project is an integral part. The term does not include the production of electricity by a light and power business as defined in RCW 82.16.010 or the preparation of food products on the premises of a person selling food products at retail. The testing operation is defined in terms of a process occurring at a location. To be eligible as a qualifying use of M&E, the use must take place within the testing operation, unless specifically excepted by law.

(4) **Sales and use tax exemption.** The M&E exemption provides a retail sales and use tax exemption for machinery and equipment used directly in a manufacturing operation or research and development operation. Sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying machinery and equipment are also exempt from sales tax. However, because the exemption is limited to items with a useful life of one year or more, some charges for repair, labor, services, and replacement parts may not be eligible for the exemption. In the case of labor and service charges that cover both qualifying and nonqualifying repair and replacement parts, the labor and services charges are presumed to be exempt. If all of the parts are nonqualifying, the labor and service charge is not exempt.

On and after July 25, 1999, the exemption may be taken for qualifying machinery and equipment used directly in a testing operation by a person engaged in testing for a manufacturer or processor for hire.

Sellers remain subject to the retailing B&O tax on all sales of machinery and equipment to consumers if delivery is

made within the state of Washington, notwithstanding that the sale may qualify for an exemption from the retail sales tax.

(a) **Sales tax.** The purchaser must provide the seller with an exemption certificate. The exemption certificate must be completed in its entirety. The seller must retain a copy of the certificate as a part of its records. This certificate may be issued for each purchase or in blanket form certifying all future purchases as being exempt from sales tax. Blanket forms must be renewed every four years.

The form must contain the following information:

- (i) Name, address, and registration number of the buyer;
- (ii) Name of the seller;
- (iii) Name and title of the authorized agent of the buyer/user;
- (iv) Authorized signature;
- (v) Date; and
- (vi) Whether the form is a single use or blanket-use form.

A copy of a M&E certificate form may be obtained from the department of revenue on the Internet at <http://www.dor.wa.gov/>, under "Other forms and schedules" or by contacting the department's taxpayer services division at:

Department of Revenue
Taxpayer Services
P.O. Box 47478
Olympia, WA 98504-7478

(b) **Use tax.** The use tax complements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any tangible personal property purchased at retail, where the user has not paid retail sales tax with respect to the purchase of the property used. (See also chapter 82.12 RCW and WAC 458-20-178.) If the seller fails to collect the appropriate retail sales tax, the purchaser is required to pay the retail sales tax (commonly referred to as "deferred sales tax") or the use tax directly to the department unless the purchase and/or use is exempt from the retail sales and/or use tax. A qualifying person using eligible machinery and equipment in Washington in a qualifying manner is exempt from the use tax. If an item of machinery and equipment that was eligible for use tax or sales tax exemption fails to overcome the majority use threshold or is totally put to use in a nonqualifying manner, use tax is due on the fair market value at the time the item was put to nonqualifying use. See subsection (10) of this rule for an explanation of the majority use threshold.

(5) **Who may take the exemption.** The exemption may be taken by a manufacturer or processor for hire who manufactures articles, substances, or commodities for sale as tangible personal property, and who, for the item in question, meets the used directly test and overcomes the majority use threshold. (See subsection (9) of this rule for a discussion of the "used directly" criteria and see subsection (10) of this rule for an explanation of the majority use threshold.) However, for research and development operations, there is no requirement that the operation produce tangible personal property for sale. A processor for hire who does not sell tangible personal property is eligible for the exemption if the processor for hire manufactures articles, substances, or commodities

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that will be sold by the manufacturer. For example, a person who is a processor for hire but who is manufacturing with regard to tangible personal property that will be used by the manufacturer, rather than sold by the manufacturer, is not eligible. See WAC 458-20-136 and RCW 82.04.110 for more information. On and after July 25, 1999, persons who engage in testing for manufacturers or processors for hire are eligible for the exemption. To be eligible for the exemption, the taxpayer need not be a manufacturer or processor for hire in the state of Washington, but must meet the Washington definition of manufacturer.

(6) **What is eligible for the exemption.** Machinery and equipment used directly in a qualifying operation by a qualifying person is eligible for the exemption, subject to overcoming the majority use threshold.

There are three classes of eligible machinery and equipment: Industrial fixtures, devices, and support facilities. Also eligible is tangible personal property that becomes an ingredient or component of the machinery and equipment, including repair parts and replacement parts. "Machinery and equipment" also includes pollution control equipment installed and used in a qualifying operation to prevent air pollution, water pollution, or contamination that might otherwise result from the operation.

(7) **What is not eligible for the exemption.** In addition to items that are not eligible because they do not meet the used directly test or fail to overcome the majority use threshold, there are four categories of items that are statutorily excluded from eligibility. The following property is not eligible for the M&E exemption:

(a) Hand-powered tools. Screw drivers, hammers, clamps, tape measures, and wrenches are examples of hand-powered tools. Electric powered, including cordless tools, are not hand-powered tools, nor are calipers, plugs used in measuring, or calculators.

(b) Property with a useful life of less than one year. All eligible machinery and equipment must satisfy the useful life criteria, including repair parts and replacement parts. For example, items such as blades and bits are generally not eligible for the exemption because, while they may become component parts of eligible machinery and equipment, they generally have a useful life of less than one year. Blades generally having a useful life of one year or more, such as certain sawmill blades, are eligible. See subsection (8) of this rule for thresholds to determine useful life.

(c) Buildings, other than machinery and equipment that is permanently affixed to or becomes a physical part of a building. Buildings provide work space for people or shelter machinery and equipment or tangible personal property. The building itself, and some of its components, such as walls, partitions, floors, ceilings, windows, and doors, are not eligible for the exemption. The industrial fixtures and support facilities that become affixed to or part of the building might be eligible. The subsequent real property status of industrial fixtures and support facilities does not affect eligibility for the exemption.

(d) Building fixtures that are not integral to the manufacturing operation, testing operation, or research and development operation that are permanently affixed to and become a

physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical. Examples of nonqualifying fixtures are: Fire sprinklers, building electrical systems, or washroom fixtures. Fixtures that are integral to the manufacturing operation might be eligible, depending on whether the item meets the other requirements for eligibility, such as the used directly test.

(8) **The "useful life" threshold.** RCW 82.08.02565 has a per se exception for "property with a useful life of less than one year." Property that meets this description is not eligible for the M&E exemption. The useful life threshold identifies items that do not qualify for the exemption, such as supplies, consumables, and other classes of items that are not expected or intended to last a year or more. For example, tangible personal property that is acquired for a one-time use and is discarded upon use, such as a mold or a form, has a useful life of less than one year and is not eligible. If it is clear from taxpayer records or practice that an item is not used for at least one year, the item is not eligible, regardless of the answers to the four threshold questions. The following steps should be used in making a determination whether an item meets the "useful life" threshold. The series of questions progress from simple documentation to complex documentation. In order to substantiate qualification under any step, a taxpayer must maintain adequate records. Catastrophic loss, damage, or destruction of an item does not affect eligibility of machinery and equipment that otherwise qualifies. Assuming the machinery and equipment meets all of the other M&E requirements and does not have a single one-time use or is not discarded during the first year, useful life can be determined by answering the following questions for an individual piece of machinery and equipment:

(a) Is the machinery and equipment capitalized for either federal tax purposes or accounting purposes?

- If the answer is "yes," it qualifies for the exemption.
- If the answer is "no,"

(b) Is the machinery and equipment warranted by the manufacturer to last at least one year?

- If the answer is "yes," it qualifies for the exemption.
- If the answer is "no,"

(c) Is the machinery and equipment normally replaced at intervals of one year or more, as established by industry or business practice? (This is commonly based on the actual experience of the person claiming the exemption.)

- If the answer is "yes," it qualifies for the exemption.
- If the answer is "no,"

(d) Is the machinery and equipment expected at the time of purchase to last at least one year, as established by industry or business practice? (This is commonly based on the actual experience of the person claiming the exemption.)

- If the answer is "yes," it qualifies for the exemption.
- If the answer is "no," it does not qualify for the exemption.

(9) **The "used directly" criteria.** Items that are not used directly in a qualifying operation are not eligible for the exemption. The statute provides eight descriptions of the phrase "used directly." The manner in which a person uses an item of machinery and equipment must match one of these

descriptions. If M&E is not "used directly" it is not eligible for the exemption. Examples of items that are not used directly in a qualifying operation are cafeteria furniture, safety equipment not part of qualifying M&E, packaging materials, shipping materials, or administrative equipment. Machinery and equipment is "used directly" in a manufacturing operation, testing operation, or research and development operation, if the machinery and equipment meets any one of the following criteria:

(a) Acts upon or interacts with an item of tangible personal property. Examples of this are drill presses, cement mixers (agitators), ready-mix concrete trucks, hot steel rolling machines, rock crushers, and band saws. Also included is machinery and equipment used to repair, maintain, or install tangible personal property. Computers qualify under this criteria if:

- (i) They direct or control machinery or equipment that acts upon or interacts with tangible personal property; or
- (ii) If they act upon or interact with an item of tangible personal property.

(b) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site or the testing site. Examples of this are wheelbarrows, handcarts, storage racks, forklifts, tanks, vats, robotic arms, piping, and concrete storage pads. Floor space in buildings does not qualify under this criteria. Not eligible under this criteria are items that are used to ship the product or in which the product is packaged, as well as materials used to brace or support an item during transport.

(c) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property at the site or away from the site. Examples of "away from the site" are road testing of trucks, air testing of planes, or water testing of boats, with the machinery and equipment used off site in the testing eligible under this criteria. Machinery and equipment used to take readings or measurements is eligible under this criteria.

(d) Provides physical support for or access to tangible personal property. Examples of this are catwalks adjacent to production equipment, scaffolding around tanks, braces under vats, and ladders near controls. Machinery and equipment used for access to the building or to provide a work space for people or a space for tangible personal property or machinery and equipment, such as stairways or doors, is not eligible under this criteria.

(e) Produces power for or lubricates machinery and equipment. A generator providing power to a sander is an example of machinery and equipment that produces power for machinery and equipment. An electrical generating plant that provides power for a building is not eligible under this criteria. Lubricating devices, such as hoses, oil guns, pumps, and meters, whether or not attached to machinery and equipment, are eligible under this criteria.

(f) Produces another item of tangible personal property for use in the manufacturing operation, testing operation, or research and development operation. Machinery and equipment that makes dies, jigs, or molds, and printers that produce camera-ready images are examples of this.

(g) Places tangible personal property in the container, package, or wrapping in which the tangible personal property is normally sold or transported.

(h) Is integral to research and development as defined in RCW 82.63.010. "Integral" means a part of the whole, and in this context means that the machinery and equipment is necessary for research and development.

(10) The majority use threshold.

(a) Machinery and equipment both used directly in a qualifying operation and used in a nonqualifying manner is eligible for the exemption only if the qualifying use satisfies the majority use requirement. Examples of situations in which an item of machinery and equipment is used for qualifying and nonqualifying purposes include: The use of machinery and equipment in manufacturing and repair activities, such as using a power saw to make cabinets in a shop versus using it to make cabinets at a customer location; the use of machinery and equipment in manufacturing and constructing activities, such as using a forklift to move finished sheet rock at the manufacturing site versus using it to unload sheet rock at a customer location; and the use of machinery and equipment in manufacturing and transportation activities, such as using a mixer truck to make concrete at a manufacturing site versus using it to deliver concrete to a customer. Majority use can be expressed as a percentage, with the minimum required amount of qualifying use being greater than fifty percent compared to overall use. To determine whether the majority use requirement has been satisfied, the person claiming the exemption must retain records documenting the measurement used to substantiate a claim for exemption. Majority use is measured by looking at the use of an item during a calendar year using any of the following:

(i) Time. Time is measured using hours, days, or other unit of time, with qualifying use of the M&E the numerator, and total time used the denominator. Suitable records for time measurement include employee time sheets or equipment time use logs.

(ii) Value. Value means the value to the person, measured by revenue if the qualifying and nonqualifying uses both produce revenue. Value is measured using gross revenue, with revenue from qualifying use of the M&E the numerator, and total revenue from use of the M&E the denominator. If there is no revenue associated with the use of the M&E, such as in-house accounting use of a computer system, the value basis may not be used. Suitable records for value measurement include taxpayer sales journals, ledgers, account books, invoices, and other summary records.

(iii) Volume. Volume is measured using amount of product, with volume from qualifying use of the M&E the numerator and total volume from use of the M&E the denominator. Suitable records for volume measurement include production numbers, tonnage, and dimensions.

(iv) Other comparable measurement for comparison. The department may agree to allow a taxpayer to use another measure for comparison, provided that the method results in a comparison between qualifying and nonqualifying uses. For example, if work patterns or routines demonstrate typical behavior, the taxpayer can satisfy the majority use test using work site surveys as proof.

(b) Each piece of M&E does not require a separate record if the taxpayer can establish that it is reasonable to bundle M&E into classes. Classes may be created only from

similar pieces of machinery and equipment and only if the uses of the pieces are the same. For example, forklifts of various sizes and models can be bundled together if the forklifts are doing the same work, as in moving wrapped product from the assembly line to a storage area. An example of when not to bundle classes of M&E for purposes of the majority use threshold is the use of a computer that controls a machine through numerical control versus use of a computer that creates a camera ready page for printing.

(c) Typically, whether the majority use threshold is met is decided on a case-by-case basis, looking at the specific manufacturing operation in which the item is being used. However, for purposes of applying the majority use threshold, the department may develop industry-wide standards. For instance, the aggregate industry uses concrete mixer trucks in a consistent manner across the industry. Based on a comparison of selling prices and delivery prices the department has determined that concrete trucks overcome the majority use threshold. Only in those limited instances where it is apparent that the use of the concrete truck is atypical for the industry would the taxpayer be required to provide recordkeeping on the use of the truck in order to support the exemption.

PROPOSED

WSR 00-04-045
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed January 27, 2000, 9:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-18-043.

Title of Rule: WAC 388-416-0015 Certification periods for categorically needy (CN) medical and children's health insurance program (CHIP) and 388-418-0025 Effect of changes on medical program eligibility.

Purpose: Adds language concerning implementation of the children's health insurance program (CHIP).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Statute Being Implemented: RCW 74.09.450.

Summary: These proposed amendments provide for the eligibility elements of CHIP.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, Mailstop 45534, Olympia, WA 98504-5534, (360) 725-1330.

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

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule has no impact on small businesses. It affects eligibility for medical programs.

RCW 34.05.328 applies to this rule adoption. These rules do fit the definition of a significant legislative rule but DSHS is exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on March 7, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by February 25, 2000, 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 March 7, 2000.

Date of Intended Adoption: Not before March 8, 2000.

January 24, 2000

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 388-416-0015 Certification periods for categorically needy (CN) (~~(programs)~~) medical and children's health insurance program (CHIP). (1) (~~(Eligibility for)~~) A certification period is the period of time a person is determined eligible for a categorically needy (CN) medical (~~(assistance)~~) program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application (~~(-Eligibility ends on)~~) and continues to the last day of the last month of the certification period.

(2) (~~(TANF/SFA-related, and SSI-related CN medical are each certified for twelve months.~~

(3) ~~The pregnant women's program is certified through the end of the month which includes the sixtieth day from the day the pregnancy ends.~~

(4) ~~The children's medical program is certified for twelve months or through the end of the month the child turns nineteen, whichever is earlier. This period can be extended when:~~

(a) ~~The child is receiving inpatient services on the last day of the month when the child turns nineteen; and~~

(b) ~~The inpatient stay continues into the following month or months; and~~

(c) ~~The child remains eligible except for exceeding the age requirement.~~

(5) ~~For a child eligible for the newborn medical program (~~(is certified)~~), the certification period begins on the child's date of birth and continues through the end of the month (~~(that the newborn turns one year old)~~) of the child's first birthday.~~

(3) For a woman eligible for a medical program based on pregnancy, the certification period ends the last day of the month that includes the sixtieth day from the day the pregnancy ends.

(4) For families, children, and SSI-related persons, the certification period is twelve months. When the medical assistance unit is also receiving benefits under a cash or food assistance program, the medical certification period is updated to begin anew at each:

- (a) Approved application for cash or food assistance; or
- (b) Completed eligibility review.

(5) When the child turns nineteen the certification period ends even if the twelve-month period is not over. The certification period may be extended past the end of the month the child turns nineteen when:

- (a) The child is receiving inpatient services on the last day of the month the child turns nineteen;
- (b) The inpatient stay continues into the following month or months; and
- (c) The child remains eligible except for exceeding age nineteen.

(6) ~~((The))~~ A retroactive certification period can begin up to three months immediately ~~((prior to))~~ before the month of application when:

- (a) The client would have been eligible for medical assistance ~~((, had))~~ if the client had applied; and
- (b) The client received covered medical services ~~((which are covered by DSHS;))~~ as described in WAC 388-529-0100 ~~((, and~~
- ~~((e)))~~.

(7) If ~~((eligibility))~~ the client is eligible only ~~((for a))~~ during the three-month retroactive period, that period is the only period of certification.

~~((7))~~ (8) Any months of a retroactive certification period are added to the designated certification periods described in this section.

~~((8) Medical assistance is continued until eligibility is redetermined as described in chapter 388-418 WAC))~~

(9) For a child determined eligible for CHIP medical benefits as described in chapter 388-542 WAC:

- (a) The certification periods are described in subsections (1), (4), and (5) of this section; and
- (b) There is not a retroactive eligibility period as described in subsections (6), (7), and (8).

AMENDATORY SECTION (Amending WSR 99-10-064, filed 5/3/99, effective 6/3/99)

WAC 388-418-0025 Effect of changes on medical program eligibility. (1) A client continues to receive Medicaid until the department determines the client's ineligibility or eligibility ~~((or ineligibility))~~ for another medical program. This applies to a client who, during a certification period, becomes ineligible for, is terminated from, or requests termination from:

- (a) A CN Medicaid program or SFA-related medical program; or
- (b) Any of the following cash grants:
 - (i) TANF or SFA;
 - (ii) SSI;
 - (iii) GA-H; or
 - (iv) GA-X. See WAC 388-434-0005 for changes reported during eligibility review.

(2) A child remains continuously eligible for medical benefits for a period of twelve months from the date of certification for medical benefits or last review, whichever is later. This applies unless the child:

- (a) Moves out of state;
- (b) Loses contact with the department or the department does not know the child's whereabouts;
- (c) Turns eighteen years of age if receiving children's health program benefits;
- (d) Turns nineteen years of age if receiving children's CN or CN scope of care program benefits; ~~((or))~~
- (e) Dies; or
- (f) Receives benefits under the children's health insurance program (CHIP) and:
 - (i) Does not pay health insurance premiums for four consecutive months; or
 - (ii) Is determined to have had creditable coverage at the time of application. Refer to chapter 388-542 WAC.

(3) When a client becomes ineligible for refugee cash assistance, refugee medical assistance can be continued only through the eight-month limit, as described in WAC 388-400-0035(6).

(4) A client receiving benefits under a TANF or SFA cash grant or related medical program is eligible for a medical extension, as described under WAC 388-523-0100, when the client's cash grant or related medical program is terminated as a result of:

- (a) Earned income; or
- (b) Collection of child or spousal support.
- (5) A change in income during a certification period does not affect eligibility for:
 - (a) Pregnant women's medical programs; or
 - (b) The first six months of the TANF/SFA-related medical extension.

(6) For a child receiving benefits under CHIP as described in chapter 388-542 WAC, the department must redetermine eligibility for a Medicaid program when the family reports:

- (a) Family income has decreased to less than two hundred percent FPL;
- (b) The child becomes pregnant;
- (c) A change in family size; or
- (d) The child receives SSI.

(6) For a child receiving benefits under CHIP as described in chapter 388-542 WAC, the department must redetermine eligibility for a Medicaid program when the family reports:

- (a) Family income has decreased to less than two hundred percent FPL;
- (b) The child becomes pregnant;
- (c) A change in family size; or
- (d) The child receives SSI.

WSR 00-04-049
PROPOSED RULES
NORTHWEST AIR
POLLUTION AUTHORITY
 [Filed January 28, 2000, 9:35 a.m.]

Original Notice.

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

Title of Rule: Northwest Air Pollution Authority Regulation (NWAPA).

Purpose: To amend sections of NWAPA regulation to clarify requirements for sources emitting odorous compounds and for portable temporary sources. Require small,

new, or modified NSPS or NESHAP sources to complete new source review.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Summary: Amendatory Sections:

300.2 Requires new or modified air pollution sources that trigger new source performance standards (NSPS) or national emission standards for hazardous air pollutants (NESHAP) to undergo new source review even when emissions are less than pollutant thresholds listed in this section.

301.8 Clarify requirements for portable temporary sources. Shorten intent to operate notification from 30 to 15 days.

530 Exclude odorous emissions from this general nuisance provision. Control of odorous emissions and their subsequent nuisance impacts are specifically addressed in Section 535.

535 Clarify requirements for the control of odorous emissions and their nuisance impacts.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James Randles, 1600 South Second Street, Mt. Vernon, 98273, (360) 428-1617 ext. 208.

Name of Proponent: Northwest Air Pollution Authority, 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. Not required.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: NWAPA Hearing Room, 1600 South Second Street, Mount Vernon, WA 98273-5202, on March 9, 2000, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Susan Cosby by February 24, 2000, (360) 428-1617 ext. 200.

Submit Written Comments to: James Randles, 1600 South Second Street, Mount Vernon, WA 98273-5202, fax (360) 428-1620, by March 9, 2000.

Date of Intended Adoption: March 9, 2000.

January 27, 2000

James B. Randles

Air Pollution Control Officer

AMENDATORY SECTION

SECTION 300 - NEW SOURCE REVIEW

300.2 Notwithstanding any other subsection of this section, a notice of construction application must be filed and an order of approval issued by the Authority prior to establishment of any of the following new sources:

(a) Any project that qualifies as construction, reconstruction or modification of an affected facility, within the meaning of 40 CFR Part 60 (New Source Performance Standards) (except Part AAA, Wood stoves);

(b) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (except for

asbestos demolition and renovation projects subject to 40 CFR 61.145);

(c) Any project that qualifies as a new source within the meaning of 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants)

300.~~((2))~~³ (~~Except when part of a new major source or major modification in a nonattainment area,)~~ The following air contaminant sources do not need to submit a "Notice of Construction and Application for Approval" approved by the Authority prior to construction, installation, establishment, or modification:

300.~~((3))~~⁴ Each "Notice of Construction and Application for Approval" shall be submitted on forms provided by the Authority and shall be accompanied by a set of plans that fully describes the proposed source, the means for prevention or control of the emissions of air contaminants, the appropriate fee as required by Section 324.2, and any additional information required by the Board or Control Officer to demonstrate that the proposed source will meet the requirements of Section 301.

300.~~((4))~~⁵ A "Notice of Construction and Application for Approval" is incomplete until the Authority has received a fee as shown in Section 324.2.

300.~~((5))~~⁶ Within 30 days of receipt of a "Notice of Construction and Application for Approval", the Authority shall notify the applicant in writing if any additional information is necessary to complete the application.

300.~~((6))~~⁷ The Authority shall provide public notice prior to approval or denial of a Notice of Construction if a new or modified source will result in a significant emissions increase. The public notice shall provide for a thirty-day period to receive written comments. No final decision will be made on any "Notice of Construction and Application for Approval" until the comment period has ended and all comments have been considered.

300.~~((7))~~⁸ The applicant, any interested governmental entity, any group, or any person may request a public hearing within the 30-day public notice period published as provided above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The Authority may, at its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held upon such notice and at a time and place as the Authority deems reasonable. The Authority shall provide at least 30 days prior notice of any hearing.

300.~~((8))~~⁹ Control technology determinations issued pursuant to Title 40 Code of Federal Regulations part 63 subpart B shall be administered in accordance with procedures specified therein.

300.~~((9))~~¹⁰ A completed State Environmental Policy Act Guidelines "Environmental Checklist" shall be submitted on forms provided by the Authority in accordance with Chapter 197-10-365 WAC and Section 312 of this regulation, as part of the required "Notice of Construction and Application for Approval".

PASSED: November 12, 1998

Amended: November 12, 1999, March 9, 2000

AMENDATORY SECTION**SECTION 301 - ORDER OF APPROVAL - ORDER TO PREVENT CONSTRUCTION**

~~((301.8 Portable Sources. For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction application, providing that the owner(s) or operator(s) notifies the Authority of intent to operate at the new location at least 30 days prior to starting the operation, and supplies sufficient information to enable the Authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with the scheduled attainment of ambient standards. The permission to operate shall be for a limited period of time (90 days or less) and the Authority may set specific conditions for operation during that period. A temporary source shall be required to comply with all applicable emission standards.))~~

301.8 Portable Sources. For portable sources which locate temporarily at particular sites within the Authority's jurisdiction, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a notice of construction application, providing:

- a) The owner(s) or operator(s) notifies the Authority of the intent to operate within the jurisdiction of the Authority at least 15 days prior to starting operation, and
- b) The owner(s) or operator(s) supplies sufficient information to enable the Authority to determine that the operation will comply with all applicable air pollution rules and regulations, and
- c) The operation will not cause a violation of ambient air quality standards, and.
- d) If the operation is in a nonattainment area, it shall not interfere with the scheduled attainment of ambient standards.
- e) Permission to operate shall not exceed 90 days in any calendar year and the Authority may set specific conditions for operating during that time period.
- f) All asphalt and soil desorption plants shall have a valid Order of Approval to Construct from an air quality permitting organization in the State of Washington.
- g) Portable sources shall comply with all applicable air pollution rules and regulations.
- h) Based on source type and emission quantity portable sources may be subject to new source review at the discretion of the Control Officer.

PASSED: November 12, 1998

Amended: March 9, 2000

AMENDATORY SECTION**SECTION 530 - GENERAL NUISANCE**

530.1 No person shall discharge from any source quantities of air contaminants, with the exception of odors as addressed in Section 535, in sufficient amounts and of such

characteristics and duration as is likely to be injurious or cause damage to human health, plant or animal life, or property; or which unreasonably interferes with enjoyment of life and property.

PASSED: December 4, 1970

Amended: April 14, 1993, March 13, 1997, March 9, 2000

AMENDATORY SECTION**SECTION 535 - ODOR CONTROL MEASURES**

535.1 ~~((Best available control technology))~~ Recognized good practices and control equipment shall be installed and operated to reduce odor-bearing gasses ((or particulate matter)) emitted into the atmosphere to a reasonable minimum.

535.2 The Board or Control Officer may establish ~~((reasonable))~~ requirements that the building or equipment be ~~((closed))~~ enclosed and ventilated in such a way that ((all the air, gases and particulate matter)) odor-bearing gasses are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.

535.3 ~~((No))~~ Any person who shall cause or allow ((discharge or permit the discharge into the ambient air)) the generation of any odor ((odorous substances such as (but not limited to) hydrogen sulfide, mercaptans, organic sulfides and other aromatic and aliphatic compounds in)) from any source which may unreasonably interfere ((in such concentrations or of such duration as will threaten health or safety of any person or unreasonably interfere with the use and enjoyment of property)) with any other property owner's use and enjoyment of his or her property must use recognized good practices and control equipment to reduce these odors to a reasonable minimum.

535.4 Emissions detrimental to persons or property. No person shall cause or permit the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

Passed: January 8, 1969

Amended: April 14, 1993, March 13, 1997, March 9, 2000

WSR 00-04-052

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed January 28, 2000, 10:10 a.m.]

Original Notice.

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

Title of Rule: WAC 251-08-115 Salary—Layoff, reversion, demotion, 251-09-080 Standby pay, 251-23-040 Affirmative action plans—Content, 356-14-045 Salaries—Comparable worth, 356-26-040 Registers—Name removal for cause—Ground enumerated—Requirements, and 356-30-075 Appointments—Veterans—Noncompetitive.

Purpose: These rules pertain to standby pay, affirmative action plans, salaries-comparable worth, registers, and appointment-veterans.

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

Summary: These modifications are housekeeping in nature.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; **Implementation and Enforcement:** Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These rule modifications are housekeeping in nature and are proposed to bring higher education rules into compliance with Initiative 200.

Proposal Changes the Following Existing Rules: See above.

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

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

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on March 9, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by March 2, 2000, TDD (360) 753-4107, or (360) 664-6280.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by March 7, 2000.

Date of Intended Adoption: March 9, 2000.

January 24, 2000

Dennis Karras
Secretary

AMENDATORY SECTION (Amending Order 61, filed 8/30/77, effective 10/1/77)

WAC 251-08-115 Salary—Layoff, reversion, demotion. (1) When an employee who has been separated returns from the institution-wide layoff list to the same class occupied immediately prior to layoff, the employee shall return to the same salary step held at time of layoff, unless the employee is currently employed by the institution and to do so would cause him/her to suffer a reduction in salary.

(2) When an employee accepts a layoff option under WAC 251-10-030((5))(4), the salary shall be retained provided it does not exceed the top step of the new range.

(3) When an employee accepts a layoff option under WAC 251-10-030((6))(5), the salary shall be determined by the personnel officer.

(4) When an employee is reverted from trial service following promotion (or returns from alternate appointment), the former salary step shall be restored, provided that adjustments shall be made to take into account any periodic increments which would have occurred during the trial service period.

(5) When an employee accepts a voluntary demotion, the salary shall be determined by the personnel officer.

(6) For disciplinary demotion, the salary shall be lowered step-for-step. The personnel officer may, however, authorize exceptions to this provision.

AMENDATORY SECTION (Amending Order 62, filed 8/30/77, effective 10/1/77)

WAC 251-09-080 Standby pay. Compensation for a scheduled or nonscheduled work period employee required to restrict off-duty activities to be available for duty will be approved by the ((higher education personnel)) board and will be included in the individual institution compensation plan.

AMENDATORY SECTION (Amending WSR 99-05-042, filed 2/12/99, effective 4/1/99)

WAC 251-23-040 Affirmative action plans—Content. Each higher education institution/related board shall apply affirmative action plans/programs to increase the representation of affected group members in their workforce when it is determined that a particular group is underutilized. Affirmative action plans/programs shall address recruitment, appointment, promotion, transfer, training and career development, and shall include but not be limited to the following:

(1) An equal employment opportunity/affirmative action policy statement.

(2) An identification of the individual responsible for implementing the affirmative action plan/program and the specific responsibilities of that individual.

(3) Provisions for internal and external communication of the affirmative action plan/program.

(4) A workforce profile by race/ethnic origin, sex, age, disability, Vietnam Era veteran and disabled veteran status and job class/category and provisions for ascertaining the same.

(5) The development and implementation of utilization analyses and goals based on availability.

(6) An identification of the causes of underutilization and/or problem areas related to underutilization.

(7) The development and implementation of specific programs for correcting the identified causes of underutilization and/or problem areas, in order to achieve goals, such as:

(a) Provision for supplemental certification of underutilized persons with disabilities, Vietnam Era veterans and disabled veterans, and persons age 40 and over from all eligible lists, except institution-wide layoff lists, in accordance with WAC 251-23-060;

(b) Provision that, when goals exist for a class and when it is determined by the personnel officer that an eligible list does not contain sufficient numbers of persons with disabilities, Vietnam Era veterans and disabled veterans, and persons

age 40 and over, applicants who are members of such groups and who meet the minimum qualifications for the class may be admitted to the examination at any time. Those who pass the examination for the class shall be placed on the appropriate eligible list;

(c) Provision for members of ((~~protected~~)) affected groups to enter the employment process, but not to exclude others from it;

(d) Provision for special employee training and development programs, in accordance with WAC 251-24-030(8).

(8) A system for monitoring and evaluating progress under the affirmative action plan/program including reports to the president/chief executive officer of the institution/related board.

(9) Supportive programs, internally and externally, which will enhance the achievement of affirmative action goals.

AMENDATORY SECTION (Amending WSR 98-19-034, filed 9/10/98, effective 10/12/98)

WAC 356-14-045 Salaries—Comparable worth. (1) Salary changes necessary to achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the department of personnel. Increases in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under chapter 41.06 RCW shall be fully achieved not later than June 30, 1993.

(2) Comparable worth entitlements shall comply with the December 31, 1985 settlement agreement between the state of Washington and the American Federation of State, County and Municipal Employees (AFSCME), et al., as approved by federal district court and ratified by the Washington legislature.

(3) Upon the establishment of new classes, or redefinition of existing classes, the following policy shall apply:

(a) When an existing class or class series that is covered by the settlement agreement is substantially revised, the comparable worth salary range involvement shall be determined by reevaluating the classes using the Willis methodology.

(b) The comparable worth salary range involvement for classes that were not covered by the settlement agreement and newly created classes or class series shall be determined based on internal indexing, or Willis evaluation, whichever is determined most appropriate by the director.

(c) Salary ranges for new or revised classes which are substantially common with higher education ((~~personnel board~~)) classes shall be equal, as applicable.

(4) Comparable worth evaluation committee:

(a) Comparable worth evaluations using the Willis methodology shall be conducted by an evaluation committee composed of at least eight member representatives from operating agencies, employee organizations, and department of personnel staff.

(b) Members shall be experienced in agency programs or personnel administration. Members must also attend meetings on a regular basis a majority of the time.

(c) The director shall process committee appointments, appoint officers, establish meeting agendas, call meetings,

and schedule (or reschedule) evaluations as he/she deems appropriate. Affected agency or employee representatives must submit any requests for evaluations or reevaluations in writing to the director for disposition and written response.

(5) Other administrative requirements regarding comparable worth adjustments include, but are not limited to, the following:

(a) The process for determining comparable worth class salary range involvement, if any, will be made a part of the regular monthly board meeting agenda.

(b) Requesting agencies and organizations should submit new and revised class proposals in sufficient time to accommodate a possible two-month review and evaluation period requirement.

(c) Agency requests should include proposed salary survey indexing and proposed comparable worth involvement, if any, at time of item submission. Indexing and comparable worth information will be included in board meeting agenda publications.

(d) For purposes of legal, fiscal, and legislative disclosure, comparable worth involvement salary ranges will be tracked and recorded by class.

AMENDATORY SECTION (Amending WSR 98-19-034, filed 9/10/98, effective 10/12/98)

WAC 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements. (1) The director of personnel or designee may remove the name of an eligible from a register and/or certification for any of the following reasons:

(a) For any of the causes stipulated in the chapter on appeals (WAC 356-34-010).

(b) On evidence that the eligible cannot be located by the postal authorities.

(c) On receipt of a statement from the eligible declining an appointment and/or future interest in positions in that class.

(d) If a candidate from a reduction in force register or a dual agency reversion register has waived three offers of employment for a position in the class for which the register was established.

(e) If a candidate from a promotional or open competitive register has waived consideration three times for a position in the class for which the register was established.

(f) If an eligible fails to reply to a written inquiry as to availability after five days in addition to the time required to receive and return the inquiry.

(g) If an eligible accepts an appointment and fails to report for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

(h) If an eligible was certified and reported "not satisfactory" on three occasions or if the eligible was certified and the appointing authority reported the eligible "considered but not appointed" on four separate occasions, or if the appointing authority reports either "not satisfactory" or "considered but not appointed" for a total of four times. The director of personnel or designee will monitor all name removals for adverse effect and/or disparate treatment of ((~~protected~~)) affected group members.

PROPOSED

(i) If an open competitive eligible indicates availability in a specific geographic area and subsequently refuses referral or appointment to a position in that area.

(j) If the appointing authority reports that the eligible was offered employment but could not comply with the personal identification and work authorization requirements of the federal Immigration Reform and Control Act (I.R.C.A.).

(2) The director of personnel or designee shall notify the eligible of this action and the reasons therefore by mail to the last known address, except in those cases in subsection (1)(b) or (c) of this section. The director of personnel or designee will advise the eligible of the right to appeal.

(3) An eligible's name shall be reinstated on the register upon showing of cause satisfactory to the director of personnel or in accordance with the decision of the board upon appeal.

AMENDATORY SECTION (Amending WSR 87-02-039 (Order 268), filed 1/2/87)

WAC 356-30-075 Appointments—Veterans—Non-competitive. (1) Appointing authorities shall prefer veterans, as defined in subsection (2)(a) of this section and their widows, widowers, and spouses during their initial entrance into state service when considering selecting persons from eligible lists to fill vacancies in the noncompetitive service as described in WAC 356-22-230(1). Those veterans, widows, widowers and eligible spouses determined to be at least equal to nonveterans shall be preferred over the nonveterans except appointing authorities may, with the approval of the director of personnel, consider ((~~protected~~)) affected group status and periods of military service when endeavoring to satisfy their established and approved agency affirmative action plans.

(2) For the purpose of defining the eligible veterans and their widows, widowers and spouses referred to in subsection (1) of this section:

(a) "Veteran" means honorably discharged persons following active service in any war of the United States or in any military campaign for which a campaign ribbon shall have been awarded.

(b) "Widow" and "widower" means the person who was married to the veteran defined in (a) of this subsection at the time of the veteran's death and who has not since remarried.

(c) "Spouse" means the person married to the veteran as defined in (a) above, when that veteran has a service connected permanent and total disability.

(3) "Equal" as referred to in subsection (1) of this section shall be determined by the appointing authorities as follows:

(a) Filling vacancies from the lists in the noncompetitive service. The appointing authority shall use a score resulting from an established systematic evaluation of the applicant's work and/or educational and training background, evaluated both for length of time and quality of experiences. Also, appointing authorities may uniformly use other merit factors that are specifically job-related in making determinations. When appointing authorities do select persons other than those listed in subsection (2) of this section who have lesser scores than those persons listed in subsection (2) of this section, they shall forward to the director of personnel an explanation and the relative standing of the eligibles selected.

(b) A description of the established systematic evaluation system by agencies must be submitted to the director of personnel. Upon request, the director of personnel will make the services of the department of personnel available, to recommend the merit and job-related factors and procedures for judging relative qualities.

WSR 00-04-053

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed January 28, 2000, 10:11 a.m.]

Original Notice.

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

Title of Rule: WAC 251-01-345 Rating factor or performance element, 251-20-020 Employee performance evaluation—Forms, and 251-20-030 Method of evaluation.

Purpose: These rules pertain to rating factor or performance element, employee performance evaluation forms, and method of evaluation.

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

Summary: These modifications are proposed to allow institutions of higher education to use new performance evaluation forms for evaluations of classified staff.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These modifications pertain to performance evaluations and will allow institutions of higher education to use the new performance evaluation forms for evaluations of classified staff.

Proposal Changes the Following Existing Rules: See above.

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

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

Hearing Location: Department of Personnel, 521 Capitol Way South, Olympia, WA, on March 9, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Department of Personnel by March 2, 2000, TDD (360) 753-4107, or (360) 664-6280.

Submit Written Comments to: Sharon Whitehead, Department of Personnel, P.O. Box 47500, fax (360) 586-4694, by March 7, 2000.

PROPOSED

Date of Intended Adoption: March 9, 2000.

January 24, 2000

Dennis Karras

Secretary

WSR 00-04-054

PROPOSED RULES

PERSONNEL RESOURCES BOARD

[Filed January 28, 2000, 10:12 p.m.]

AMENDATORY SECTION (Amending WSR 86-09-078 (Order 147), filed 4/22/86)

WAC 251-01-345 Rating factor or performance element. An element, duty, responsibility, skill, ability, or other specific aspect of performance which is ~~((rated))~~ evaluated as part of the annual performance evaluation.

AMENDATORY SECTION (Amending WSR 97-13-045, filed 6/13/97, effective 8/1/97)

WAC 251-20-020 Employee performance evaluation—Forms. (1) Standardized performance evaluation forms approved by the director shall be used to record employee evaluations. The forms shall contain standard ~~((rating factors))~~ or performance elements and shall provide for one or more ~~((optional factors))~~ developed by the institution, which reflect organizational requirements and specific job-related aspects of performance.

(2) The approved forms shall accommodate the provisions of WAC 251-20-040.

(3) The approved forms may be supplemented with other forms and/or information used by an institution to support the ~~((ratings))~~ evaluations recorded on the approved forms.

AMENDATORY SECTION (Amending WSR 85-20-049 (Order 136), filed 9/25/85)

WAC 251-20-030 Method of evaluation. (1) Employee performance is to be ~~((rated for each "rating factor"))~~ evaluated on the approved form on the basis of performance expectations determined by the supervisor.

(2) Upon appointment to a position, the employee's supervisor will provide the employee with a copy of the following:

(a) The specification for the class.

(b) The employee's specific position duties and responsibilities which relate to the specification.

(3) Written performance expectations ~~((for each of the rating factors))~~ shall be provided to the employee in sufficient time to allow the employee to meet the work expectations (normally within thirty calendar days after appointment to an existing position and within ninety calendar days after appointment to a newly created or significantly modified position).

(4) The ~~((supervisor's))~~ performance expectations shall remain in effect for future evaluations unless action is taken to modify them and the employee has been provided with a copy of ~~((them))~~ the changes.

~~((5) Each "rating factor" will be rated and recorded in one of the rating categories on the approved evaluation form.))~~

Original Notice.

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

Title of Rule: 359-40-010 Reasons for layoff, 359-40-020 Seniority, 359-40-050 Layoff procedure, 359-40-060 Alternate review period, 359-14-010 Maintenance of eligible lists, 359-14-020 Name removal, 359-14-030 Referrals, 359-14-050 Noncompetitive eligible list, 359-14-070 Combined eligible lists, 359-14-080 Specialized qualifications, 359-14-100 Eligible list designations, and 359-14-130 Internal procedure for transfer, lateral moves, and voluntary demotion.

Purpose: These rules pertain to layoff, seniority, layoff procedure, alternate review period, maintenance of eligible lists, name removal, referrals, noncompetitive eligible list, combined eligible lists; specialized qualifications, eligible list designations, and internal procedure for transfer, lateral moves, and voluntary demotions.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

Summary: These new rules are a result of the taskforce on layoff merger rules.

Name of Agency Personnel Responsible for Drafting: Sharon Whitehead, 521 Capitol Way South, Olympia, WA, (360) 664-6348; Implementation and Enforcement: Department of Personnel.

Name of Proponent: Department of Personnel, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These new rules pertain to layoff, seniority, layoff procedure, alternate review period, maintenance of eligible lists, name removal, referrals, noncompetitive eligible list, combined eligible lists; specialized qualifications, eligible list designations, and internal procedure for transfer, lateral moves, and voluntary demotions. The above new rule proposals are a result of the taskforce on layoff merger rules.

Proposal Changes the Following Existing Rules: See above.

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

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

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PROPOSED

Date of Intended Adoption: March 9, 2000.

January 24, 2000

Dennis Karras

Secretary

**Chapter 359-14 WAC
ELIGIBLE LISTS AND REFERRALS**

NEW SECTION

WAC 359-14-010 Maintenance of eligible lists. (1)

The establishment, maintenance, adequacy of, and referral from all eligible lists shall be the responsibility of the director, director's designee, or the higher education institution's personnel officer.

(2) The directory may, as requested, designate agency personnel officers to act as agents of the Department of Personnel for the purposes of establishing and/or maintaining local eligible lists and referral of names from those eligible lists in accordance with these rules. The director shall develop necessary procedures for local eligible lists which include audit/periodic review provisions.

(3) The director shall be responsible for establishing periodic reviews of examination, selection and hiring activities within the agencies and higher education institutions.

(4) The director, director's designee, director's agency designee with local eligible list authority, and higher education institution's personnel officer has authority to:

(a) Add additional names to the eligible lists.

(b) Remove names from referrals and/or eligible lists.

(c) Cancel the entire eligible list when the class or examination has changed to the degree that the list would be invalid and notify all affected applicants of the cancellation.

(d) Combine eligible lists as provided in WAC 359-14-070.

(e) Determine when specialized qualifications are justified for a position as provided in WAC 359-14-080.

(5) Eligibility on an eligible list shall be measured from the date that the applicant's name is placed on the list, except for the layoff lists. An applicant's eligibility on the layoff lists shall be measured from the effective date of the qualifying action.

NEW SECTION

WAC 359-14-020 Name removal. The director, designee or higher education institution's personnel officer may remove an applicant's name from a referral and/or an eligible list for the following reasons. The applicant shall not have a review or appeal when the name removal is due to the reasons indicated in (1) below.

(1) Written notification of the removal of an applicant's name from a referral and/or an eligible list is not required when the applicant has:

(a) Requested removal in writing.

(b) Failed to respond within seven calendar days to a written inquiry relative to availability for an interview. The written inquiry will include the results of not responding.

(c) Failed to respond within ten calendar days to a written inquiry relative to availability for an eligible list. The written inquiry will include the results of not responding.

(d) Failed to notify the recruiting agency/personnel office of a change of address.

(e) Been removed from a list due to expiration of eligibility.

(2) The director, designee or the higher education institution's personnel officer may remove an applicant's name from a referral and/or an eligible list for good and sufficient reason, including when the applicant has waived consideration of appointment three times.

(a) The affected applicant shall be notified of the specific reasons for removal and advised of the right to request a review by the agency or higher education institution taking the action.

(b) The applicant's written request for review must be submitted within ten calendar days of notification of the removal.

(c) Within ten calendar days after receiving a request for a review, the agency or higher education institution shall provide the applicant with written notification of the decision to:

(i) Restore the applicant's name to the eligible list and/or referral; or

(ii) Refuse to restore the applicant's name to the eligible list and/or referral. The notice shall include the applicant's right of appeal to the Director of the Department of Personnel or director's designee, whose decision is final and binding.

NEW SECTION

WAC 359-14-030 Referrals. (1) Upon receipt of a written request, the director, designee or higher education institution's personnel officer shall refer the names of qualified applicants eligible for the position from the appropriate eligible lists. When it is necessary to use more than one eligible list to complete a referral, each eligible list must be exhausted before using the next eligible list.

(a) Referrals from eligible lists for filling classified vacancies shall be made in the order of priority listed below:

(i) Internal layoff list;

(ii) Statewide layoff list;

(iii) Internal promotional list;

(iv) System wide movement list; and

(v) Open competitive list.

(b) When a combined eligible list has been approved, referrals from eligible lists for filling vacancies shall be made in the order of priority listed below:

(i) Internal layoff list;

(ii) Statewide layoff list; and

(iii) Combined eligible list.

(2) All applicants' names on the internal layoff list are ranked and referred in descending order of seniority. When there are names on the internal layoff list, one name per vacancy plus those names whose seniority dates are tied shall be referred. All names on the internal layoff list shall be exhausted before using the next eligible list.

(3) All applicants' names on the statewide layoff list are ranked and referred in descending order of seniority. When there are names on the statewide layoff list, six more names

than vacancies to be filled and those names whose seniority dates are tied for the seventh or last position shall be referred.

When sufficient names are not available on the statewide layoff list to complete a referral, the referral may be completed by adding names, including those whose scores are tied for the seventh or last position, only from the internal promotional list. However, fewer names on the statewide layoff list are a complete referral if there are no names on the internal promotional list. Names are referred in descending order of seniority from the statewide layoff list. Names from the internal promotional list are referred in descending order of score.

(4) Except as provided in (2) and (3) of this section, names on the eligible list shall be ranked and referred in descending order of examination score. The referral from an eligible list shall be six more names than there are vacancies to be filled and those whose scores are tied for the seventh or last position. If sufficient names are not available, the referral may be completed by adding applicants' names from the next eligible list.

(5) Up to three additional applicants' names plus those whose scores are tied for the last position, who meet the applicable affirmative action criteria, shall be referred from the eligible list when the following are met:

- (a) an approved affirmative action program is utilized,
- (b) the initial referral does not include at least three members of the group(s) for which there are established affirmative action goals, and
- (c) the total referral of names under this subsection shall not exceed three, except for those whose scores are tied for the last referral position.

(6) When there are fewer names than constitute a complete referral for the class, the vacancy may be filled from an incomplete referral.

(7) When there is an incomplete referral for the class, the director or agency designee with local list authority or a personnel officer at a higher education institution may complete or supplement the referral from a related eligible list or referral if it is determined the related list or referral is sufficiently similar.

(8) When it is impractical to recruit to establish an eligible list for a class, the director, agency designee with local eligible list authority, or personnel officer at a higher education institution may:

- (a) Substitute an eligible list for a related class if the classes are deemed to be sufficiently similar, or
- (b) Request the use of an eligible list established for the class at another higher education institution or agency.

(9) Permanent employees referred from an eligible list for consideration of appointment shall be notified at the time of referral. Upon appointment, the employer shall advise those permanent employees referred but not appointed of the action taken.

(10) When a vacancy occurs, the hiring authority may appoint any referred applicant.

NEW SECTION

WAC 359-14-050 Non-competitive eligible list. (1) All classes shall be considered to be in the competitive ser-

vice unless a class has been approved by the director to be in the noncompetitive service.

The noncompetitive service comprises those unskilled, seasonal and temporary classes or positions for which the director has determined it is not practical to develop eligible lists. Although the same selection procedures may be used as in the competitive service, the procedures need not be applied beyond the point of determining that an applicant achieves a passing score.

(2) Noncompetitive eligible lists shall contain the names of applicants who meet the minimum or desirable qualifications.

(3) Eligible veterans shall be granted examination and referral preference as provided in these rules and the state law.

(4) The director shall develop necessary procedures which include audit provisions for noncompetitive recruitments.

NEW SECTION

WAC 359-14-070 Combined eligible lists. (1) Combined eligible lists include the internal promotional list, system wide movement list, and open competitive list with all applicants ranked and referred in descending order of final examination score. Six more names than there are vacancies and those whose scores are tied for the seventh or last position shall be referred

(2) Except as provided in (3) below, combined lists may be approved by the director, designee, or higher education institution's personnel officer when:

- (a) the exclusive representative has been notified when the position is in a collective bargaining unit,
- (b) qualified candidates are not available on the internal and statewide layoff lists, and
- (c) the request is in the best interest of the state.

(3) A higher education institution's personnel officer may combine specific lists for EEO-6 categories executive, administrative, managerial, and professional non-faculty. When doing so, the recruitment notice shall indicate combined lists are used and applicants shall be ranked and referred in order of the final examination score.

(4) Current permanent employees of the employing agency or higher education institution/related board shall have five percent credit added to their final passing examination scores when any combined eligible list is used. Former employees, who are eligible to apply promotionally after disability separation, of the agency or higher education institution shall have five percent credit added to their final passing examination scores when any combined eligible list is used.

NEW SECTION

WAC 359-14-080 Specialized qualifications. (1) An employing official may request specialized qualifications that are required for the successful performance of the duties of the position, and cannot be gained within a reasonable time.

(2) Specialized qualifications shall not exceed the amount of experience/training or level of education published in the class specification.

(3) Specialized qualifications based on gender shall be made consistent with a bona fide occupational qualification approved by the Human Rights Commission.

(4) If the director of personnel, designee, or higher education institution's personnel officer determines that the facts and reasons justify the request, the applicants with the highest final score(s) who have the specialized qualifications shall be referred.

NEW SECTION

WAC 359-14-100 Eligible list designations. (1) Internal layoff list

(a) Employees shall have the following internal layoff list(s) rights:

(i) Employees who are laid off shall be placed on the internal layoff lists for classes in which they held permanent status at the current or lower salary range and in lower classes in the same class series. Permanent status is not required for the lower classes in the class series.

(ii) Employees who take a voluntary demotion in-lieu of layoff shall be placed on the internal layoff list(s) for the class from which they demoted and classes at that salary range and lower salary ranges in which the employees held permanent status.

(A) Except for employees who transfer within the same class, employees reverted during the trial service period, upon request, shall be listed at the current and former agency/higher education institution on the internal layoff list for the last class in which the employee held permanent status prior to the reversion.

(B) Employees who transfer within the same class, and are reverted during the trial service period, upon request, shall be listed at the former agency/higher education institution on the internal layoff list for the last class in which the employee held permanent status prior to the reversion.

(iii) Upon request, an employee will be listed on the internal layoff lists for higher level classes where the employee held permanent status when an agency or institution of higher education has developed an internal policy and criteria to allow access to higher level classes.

(b) The following permanent employees of each employing agency and higher education institution may request to have their names placed on the appropriate internal layoff list(s):

(i) Employees who were laid off.

(ii) Employees who are scheduled to be laid off.

(iii) Employees who accepted a voluntary demotion in lieu of a layoff.

(iv) Employees who accepted less-than-comparable positions as defined by the employer's layoff procedure.

(v) Employees who move between agencies and/or higher education institutions and who are reverted during the trial service period.

(A) Except for employees who transfer within the same class, employees reverted during the trial service period shall be listed at the current and former agency/higher education

institution on the internal layoff list for the last class in which the employee held permanent status prior to the reversion.

(B) Employees who transfer within the same class and are reverted during the trial service period shall be listed at the former agency or higher education institution on the internal layoff list for the last class in which the employee held permanent status prior to the reversion.

(vi) Employees whose positions are being reallocated downward.

(vii) Employees who are eligible as provided in these rules.

(c) Employees are not eligible to be placed on internal layoff lists for classes from which they have been demoted for cause.

(d) Referrals from the internal layoff list shall be made in accordance with WAC 359-14-030.

(e) Names of eligible employees shall remain on the internal layoff list for two years from the effective date of the qualifying action. Upon the employee's request, eligibility shall be extended for one additional year, for a total of three years of eligibility on the internal layoff list.

(f) The employer may require an alternate review period when offering layoff options or upon appointment from a layoff list as provided in WAC 359-40-060.

(2) Statewide layoff list

(a) Employees shall have the following statewide layoff list rights:

(i) Upon request, employees who are laid off shall be placed on statewide layoff lists for classes in which they held permanent status at the same or lower salary range and lower classes in the same class series or equivalent intersystem classes as determined by the Department of Personnel. Permanent status is not required in the lower classes in the class series or in equivalent intersystem classes.

(ii) Upon request, employees who take a voluntary demotion in-lieu of layoff shall be placed on the statewide layoff list for the class from which they demoted and classes at that salary range and lower salary ranges in which the employee held permanent status.

(iii) All employees referred from the statewide layoff list shall be offered an interview.

(b) The following permanent employees may request to have their names placed on the statewide layoff list(s) for other state agencies and higher education institutions:

(i) Employees who were laid off.

(ii) Employees who are scheduled to be laid off.

(iii) Employees who accepted a voluntary demotion in lieu of layoff.

(iv) Employees who accepted less-than-comparable positions as defined by the employer's layoff procedure.

(v) Employees who are eligible as provided in these rules.

(c) Employees are not eligible to be placed on statewide layoff lists for classes from which they have been demoted for cause.

(d) Referrals from the statewide layoff list shall be made in accordance with WAC 359-14-030.

(e) Names of eligible employees shall remain on the statewide layoff list(s) for two years from the effective date

of the qualifying action. Upon the employee's request, eligibility shall be extended for one additional year, for a total of three years of eligibility on the statewide layoff list.

(f) The employer may require an alternate review period when offering layoff options or upon appointment from a layoff list as provided in WAC 359-40-060.

(3) Internal Promotional List

(a) The internal promotional list at each agency and each higher education institution shall include the names of the following permanent employees of that employer who meet minimum qualifications and receive a final passing score in the examination for a class having a higher maximum salary than the employee's permanent class.

(i) Current employees.

(ii) Employees who were separated due to layoff and who are currently on an internal layoff list.

(iii) Employees who are eligible as provided in these rules.

Employees who have completed their probationary period may request that their existing open competitive examination score be converted to this list.

(b) Promotional preference may be provided to employees within the organizational unit before considering other internal promotional employees.

(i) An organizational unit is a clearly identified structure or substructure of persons employed to achieve a common goal or function under the direction of a single official.

(ii) An organizational unit may consist of an administrative entity or a geographic location.

(c) Referrals from the internal promotional list shall be made in accordance with WAC 359-14-030.

(d) Names of employees shall remain on the internal promotional list for an indefinite period unless specified in the recruitment notice or as provided in these rules.

(e) Employees appointed to a position from the internal promotional list shall serve a trial service period.

(4) System Wide Movement List

(a) The system wide movement list shall be used to promote, transfer, laterally move, or voluntarily demote to a state agency or a higher education institution where the employee is not currently employed. The list shall include the names of the following applicants who meet the minimum qualifications and receive a passing final score in the examination for the class:

(i) Current permanent employees.

(ii) Employees who were separated due to layoff and who are currently on a layoff list.

(iii) Employees who are eligible as provided in these rules.

(iv) Employees who have completed their probationary period may request that their existing open competitive score be converted to this list.

(b) Referrals from the system wide movement list shall be made in accordance with WAC 359-14-030.

(c) Names of employees shall remain on the system wide movement list for an indefinite period unless otherwise specified in the recruitment notice or as provided in these rules.

(d) Employees appointed to a position from the system wide movement list shall serve a trial service period.

(5) Open Competitive List

(a) The open competitive list shall contain the names of all applicants including former employees, who are not eligible for placement on other eligible lists specified in this chapter.

(b) To be considered for the open competitive list, applicants must apply, meet the current qualifications, and pass the examination for the class.

(c) Referrals from the open competitive list shall be made in accordance with WAC 359-14-030.

(d) Names of eligible applicants shall remain on the open competitive list for an indefinite period unless otherwise specified in the recruitment notice or provided by these rules.

(e) Applicants appointed to a position from the open competitive list shall serve a probationary period as designated for the class.

NEW SECTION

WAC 359-14-130 Internal procedure for transfer, lateral moves, and voluntary demotion. (1) Each agency director or designee or each higher education institution's personnel officer shall develop an internal procedure to provide reasonable opportunity for current employees requesting to:

(a) transfer within a class;

(b) laterally move; or

(c) voluntarily demote.

(2) The employer's internal procedure for employee-initiated movement shall include the following information:

(a) explanation of the process;

(b) required tests, current qualifications; and

(c) trial service requirements.

Chapter 359-40 WAC LAYOFF

NEW SECTION

WAC 359-40-010 Reasons for layoff. (1) Employees may be separated from their position and/or employment in accordance with the statutes and the employer's layoff procedures, without prejudice, because of:

(a) lack of funds;

(b) lack of work;

(c) good faith reorganization for efficiency purposes;

(d) ineligibility to continue in a position which was reallocated; and/or

(e) when there are fewer positions than employees entitled to such positions either by statute or within other provisions of these rules.

NEW SECTION

WAC 359-40-020 Seniority. (1) Seniority for layoff purposes is a measure of the last period of unbroken time served in positions in the classified service under the jurisdiction of the Washington Personnel Resources Board.

(2) Seniority for permanent full time employees in a lay-off situation will be calculated as follows.

(a) In state agencies, seniority is the last period of unbroken time served in positions in classified service, *including* time on the layoff lists for a maximum of three years for each layoff occurrence, *plus* time in an exempt appointment when the employee returns to classified service without a break in service, plus veterans may include active military service up to 5 years in accordance with these rules, minus time spent in leave without pay status except when approved for specific reasons specified in these rules.

(b) In state agencies, for layoff purposes, ties in seniority will be broken by first measuring each employees total accumulated state service; if the tie still exists, by measuring the last continuous time within the current classification; if the tie still exists, by measuring the last continuous time with the current employer; and if the tie still exists, by lot.

(c) In higher education institutions, seniority is the number of calendar days continuously employed in classified service based on the earliest date of continuous classified service, *plus* veterans may include up to 5 years of active military service credit in accordance with these rules, *minus* all time spent in leave without pay status, including time in an exempt position, except:

- (i) where required by statute, or
- (ii) for cyclic year positions.

(3) In state agencies, seniority for part-time employees will be computed on a basic payroll hours compared to full time employees, within the same provisions and restrictions of the definition of seniority.

(4) In higher education institutions, less than full time employment shall be considered full time service for purposes of seniority.

(5) When an employee from a state agency applies to be placed on the statewide layoff list at a higher education institution, the employee's seniority will be recalculated by the higher education institution using data from the agency.

When an employee from a higher education institution applies to be placed on the statewide layoff list at an agency, the employee's seniority will be recalculated by the agency using data from the higher education institution.

(6) An employee who moves from a state agency to a higher education institution or from a higher education institution to a state agency, shall have seniority computed using the applicable method in (2), (3) and (4) of this section for the employee's new employer.

NEW SECTION

WAC 359-40-050 Layoff procedure. (1) Each agency and each institution of higher education shall develop a layoff procedure.

(2) The rules for layoff procedures are not intended to exclude requirements that address specific organizational needs or additional options that enhance opportunities for affected employees.

(3) Each layoff procedure shall include, but is not limited to, the following:

(a) Clearly defined layoff unit(s) that minimize disruption of the employer's total operation but are not unduly restrictive of options available to employees.

(i) Layoff units may be a series of progressively larger units within an organization when a valid option in lieu of separation cannot be offered to respective employees within a smaller unit.

(ii) Separate and exclusive layoff units may be established for special employment programs that are provided in these rules.

(b) Provisions that address opportunities to prevent lay-off, including, transfers, voluntary demotion, reduced work schedule, voluntary leave without pay and/or positions held by non-permanent or probationary employees.

(c) Provisions that an option(s) within the layoff unit shall be comparable as defined in the employer's layoff procedure.

(d) Provisions that an employer shall not offer a layoff option to a filled position if there is a funded vacancy within the layoff unit in the same class as the filled position and the vacant position is comparable.

(e) Provisions for written notice of layoff to employees by the appointing authority or designee.

(i) Permanent employees shall receive written notice at least 15 calendar days before the effective date of layoff.

(ii) Employers shall advise those employees in writing of layoff options, including alternate review period requirements, the specific layoff list(s) for which they are entitled, and their appeal rights. The written notice shall specify the rights and obligations of the employees to accept or reject layoff options.

(iii) A copy of the employer's layoff procedure shall be made available to each employee who is subject to layoff.

(f) Provisions for options for permanent employees subject to layoff.

(i) Layoff options shall be offered based on seniority.

(ii) The sequence of a layoff option(s) to position(s) within the layoff unit, at a minimum, shall be offered in the following order:

(A) the current class, or if none are available;

(B) classes at the current salary range, or if none are available;

(C) lower classes in descending order, if available.

A through C above are classes in which the employee has held permanent status and are at the same or lower salary range maximum as the current class.

(g) Provisions that address the offering of a layoff option(s) when specific position or selective requirements are necessary, or where there are licensing or legal requirements.

(h) Provisions that address the use of alternate review periods as provided in WAC 359-40-060.

(4) Each layoff procedure may include provisions that allow additional layoff options, in descending salary order, for which the employee is qualified. These options may include:

(a) positions in lower classes in descending order in the same class series;

(b) access to any other less-than-comparable positions;

(c) access to positions filled by non-permanent appointments; and

(d) access to any other comparable positions.

NEW SECTION

WAC 359-40-060 Alternate review period. The employer may require an employee to complete an alternate review period when offering layoff options or upon appointment from an internal layoff list or the statewide layoff list.

(1) The employer will advise the employee in writing at the time of appointment of any requirement to serve an alternate review period and the length of time for the alternate review period. The length of time for the alternate review period shall not exceed the probationary period for the class.

(2) The employee shall serve an alternate review period as determined by the employer.

(a) The employer shall provide the employee with instruction and/or training in the duties of the new position or class.

(b) The employee shall obtain permanent status in the class or new position upon successful completion of the alternate review period.

(3) Employers may separate an employee from a position during the alternate review period.

(4) Employees may voluntarily separate during an alternate review period. The employee may voluntarily separate a maximum of three times during each layoff occurrence.

(5) Upon request, employees separated from positions during the alternate review period shall have their names placed on all lists for which they are eligible for the remaining eligible time.

(6) Separation and subsequent placement on the layoff list from the alternate review period shall be considered no fault. Any negative performance record for this period will be removed from the employee's personnel file.

(7) The employee shall not have an appeal of separation from the alternate review period.

WSR 00-04-055

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed January 28, 2000, 11:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-24-102.

Title of Rule: WAC 458-61-230 Bankruptcy.

Purpose: Informs taxpayers and counties of federal preemption for confirmed chapter 11 and chapter 12 bankruptcy plans that prohibits real estate excise tax from applying to transfers made under these confirmed plans.

Statutory Authority for Adoption: RCW 82.32.300 and 84.45.150.

Statute Being Implemented: RCW 82.45.060 as preempted by 11 U.S.C. sec. 1146(c) and 11 U.S.C. sec. 1231(c).

Summary: The rule provides that real estate excise tax does not apply to real property transfers made under either a chapter 11 or chapter 12 bankruptcy plan after the plan is confirmed. The rule is amended to clarify that under federal

law the bankruptcy plan must be confirmed before the preemption of the real estate excise tax takes effect. The rule also describes the information needed on the affidavit for claiming the exemption from real estate excise tax.

Reasons Supporting Proposal: Taxpayers and counties have been confused by the current rule when the preemption becomes effective because the current rule does not discuss the need for a confirmed plan as required under federal law. This confusion has led to taxpayers requesting the exemption when it was not available and litigation by the department to confirm the authority and timing of this rule.

Name of Agency Personnel Responsible for Drafting: Ed Ratcliffe, 711 Capitol Way South, #303, Olympia, WA, (360) 586-3505; Implementation and Enforcement: Gary O'Neil, 2735 Harrison N.W., Building 4, Olympia, WA, (360) 753-2871.

Name of Proponent: Department of Revenue, governmental.

Rule is necessary because of federal law, 11 U.S.C. sec. 1146(c) and 11 U.S.C. sec. 1231(c).

Explanation of Rule, its Purpose, and Anticipated Effects: Federal law preempts the imposition of real estate excise tax on "a plan confirmed under" chapter 11 or chapter 12 of the Bankruptcy Code. A bankruptcy rule summarizing this preemption was adopted to inform the counties and taxpayers of this federal law. The current rule does not discuss the federal requirement that the bankruptcy plan be confirmed. This failure to state that the plan must be confirmed has misled some taxpayers and counties about how and when the tax is preempted by federal law. The amendment of WAC 458-61-230 is intended to eliminate this confusion by clarifying that the real estate excise tax is preempted only for chapter 11 and chapter 12 bankruptcy plans after these plans are confirmed. The amendment also details the information needed upon the real estate excise affidavit in order to claim this exemption from the real estate excise tax.

Proposal Changes the Following Existing Rules: See explanation above.

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. Rule interprets application of preemption of real estate excise tax by federal bankruptcy statutes cited above consistent with the most recent federal circuit court ruling. See RCW 34.05.328 [(5)(c)(ii)].

Hearing Location: Department of Revenue, Evergreen Plaza Building, 2nd Floor Conference Room, 711 Capitol Way, Olympia, WA 98501, on March 15, 2000, 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: Ed Ratcliffe, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail edr@dor.wa.gov, by March 15, 2000.

Date of Intended Adoption: April 5, 2000.

January 28, 2000

Claire Hesselholt

Rules Manager

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 94-04-088, filed 2/1/94, effective 3/4/94)

WAC 458-61-230 Bankruptcy. (1) The real estate excise tax (~~((applies))~~) does not apply to conveyances of real property by a trustee in bankruptcy (~~((when))~~) or debtor in possession made under either a (~~((chapter 7 plan or chapter 13 plan, but not when made under a))~~) chapter 11 plan or chapter 12 plan after the bankruptcy plan is confirmed.

(2) The date when the bankruptcy plan was confirmed, the court case cause number, and the bankruptcy chapter number must be cited on the affidavit when claiming this exemption.

WSR 00-04-059

PROPOSED RULES

DEPARTMENT OF LICENSING

(Engineer Registration Board)

[Filed January 28, 2000, 2:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-20-145.

Title of Rule: This will be new chapter 196-31 WAC, Practice permits. The chapter contains seven sections that provide information for individuals to obtain, use, renew and appeal the denial of, practice permits as provided for in chapter 18.210 RCW.

Purpose: The purpose of this new chapter is to implement that part of RCW 18.210.090 requiring practice permits. It will also notify eligible individuals that design on-site wastewater treatment systems of the availability and process to obtain a practice permit. A practice permit is obtained by filing an application and paying the required fee.

Other Identifying Information: After July 1, 2000, an on-site designer must either hold a practice permit or a license described in chapter 18.210 RCW in order to practice.

Statutory Authority for Adoption: RCW 18.210.060.

Statute Being Implemented: Chapter 18.210 RCW.

Summary: 2SSB 5821 established the on-site wastewater treatment systems, designer licensing legislation in July 1999. That legislation was codified as chapter 18.210 RCW. This law requires that a practice permit be established and that on-site designers obtain a practice permit no later than July 1, 2000, or have a license described in chapter 18.210 RCW, in order to continue designing on-site wastewater treatment systems. The practice permit will stay in effect for one year and is renewable until June 30, 2003.

Reasons Supporting Proposal: RCW 18.210.090 requires that a practice permit be established and that on-site designer obtain the practice permit by July 1, 2000, or have a licensed described in chapter 18.210 RCW in order to con-

tinue practicing, or offering to practice, on-site designer services. These rules define the application process and criteria for these permits.

Name of Agency Personnel Responsible for Drafting: Joe Vincent Jr., 405 Black Lake Boulevard, Olympia, WA, (360) 586-1321; Implementation and Enforcement: George Twiss, 405 Black Lake Boulevard, Olympia, WA, (360) 586-3361.

Name of Proponent: Board of Registration for Professional Engineers and Land Surveyors, On-site Advisory Committee, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This new WAC chapter and set of rules establishes and implements practice permits as required under chapter 18.210 RCW. The rules define what a practice permit is, how to make application, when the permit is renewed and when it ultimately expires, what the scope of practice is for permit holders, and how to appeal if a practice permit is denied.

The purpose and effect of these rules is to notify individuals that design on-site systems, and the public, that these rules are being proposed. In addition, it notifies on-site designers that both chapter 18.210 RCW and these rules require that on-site designers must obtain a practice permit by July 1, 2000, or otherwise have a license as described in chapter 18.210 RCW, in order to continue practicing or offering to practice on-site designer services.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The legislature mandated through 2SSB 5821 that practice permits be established and implemented by July 1, 2000, and that anyone practicing or offering to practice on-site design services be required to obtain a practice permit or have a license as described in the chapter. The bill does not require a business to pay for the practice permit fee or the time needed to complete the permit application; those costs are typically born by the permit applicant. In addition, research conducted by the Engineer Registration Board and the On-site Advisory Committee found that all businesses doing on-site designer work fall into the states' definition of "small business." Consequently, these small businesses cannot be placed at a disadvantage by larger businesses doing the same work.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Department of Licensing is not one of the named agencies in this statute.

Hearing Location: La Quinta Inn, 1425 East 27th Street, Tacoma, WA 98421, on March 8, 2000, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kim Chipman by March 6, 2000, TDD (360) 586-2788, or (360) 753-6966.

Submit Written Comments to: Joe Vincent Jr., Manager, On-site Program, Board of Registration for Professional Engineers and Land Surveyors, P.O. Box 9649, Olympia, WA 98507-9649, fax (360) 664-2551, by February 25, 2000.

Date of Intended Adoption: March 9, 2000.

January 28, 2000
George A. Twiss
Executive Director

Chapter 196-31 WAC

PRACTICE PERMITS

NEW SECTION

WAC 196-31-010 Declaration of purpose. This chapter contains rules and procedures for individuals to obtain, use and renew practice permits as provided for in chapter 18.210 RCW.

NEW SECTION

WAC 196-31-020 Definition. "Practice permit" is a limited authorization granted by the board for an individual who performs or offers to perform design services for on-site wastewater treatment systems. Practice permits are an interim authorization and terminate at midnight on June 30, 2003.

NEW SECTION

WAC 196-31-030 Applications—Qualifications. In order to obtain a practice permit, the applicant must verify to the satisfaction of the board that the applicant holds a current authorization from a local health jurisdiction (LHJ) on or before July 1, 2000, to perform or offer to perform designs of on-site wastewater treatment systems. Only authorizations from LHJs satisfying the following criteria will be accepted:

(1) The LHJ has an established program for evaluating the competency of the applicant in on-site wastewater treatment system codes and principles for that LHJ; or

(2) If the LHJ does not have an established program for evaluating the competency of the applicant in on-site wastewater treatment systems, the LHJ has established policies or procedures that would otherwise permit the applicant to perform designs in that LHJ, and the applicant has obtained approval of those designs consistent with those established policies or procedures.

Verification must come from the authorizing LHJ(s).

NEW SECTION

WAC 196-31-040 Applications—Procedures. To obtain a practice permit an applicant must submit a completed application as prescribed by the board. Said application must be accompanied by payment of the prescribed fee as established by the director in accordance with chapter 43.24 RCW. Said application shall include verifications from all LHJs where the applicant intends to practice under a practice permit as provided under this chapter.

NEW SECTION

WAC 196-31-050 Permit issuance—Renewals. On or after April 1, 2000, individuals may apply for a practice permit in accordance with the provisions of this chapter. Permits become effective on or after July 1, 2000. Permits are valid for one year from the date of issuance and are renewable on an annual basis thereafter. Any practice permit that is not renewed shall be invalid. All practice permits renewed on or after July 1, 2002, shall expire on June 30, 2003, regardless of the date of issuance. Renewal fees for practice permits renewed on or after July 1, 2002, shall be equivalent to the established renewal for a one year renewal even if less than a year remains before June 30, 2003. No partial payments or prorated fees will be accepted for renewals. No portion of any fees paid by the applicant to the LHJ for previous authorization shall apply to practice permits issued under this chapter.

NEW SECTION

WAC 196-31-060 Scope of practice. A permit holder is authorized to perform or offer to perform designs of on-site wastewater treatment systems only in those counties where the applicant has provided LHJ verification of an authorization to practice at the time of application. Permit holders are required to be proficient in the technical design criteria and administrative code requirements for every LHJ in which they perform design services. Nothing in this chapter is intended to restrict or limit the ability of LHJs to accept homeowner designed on-site systems as provided in WAC 246-272-11501. Any practice with an expired permit shall constitute unprofessional conduct and grounds for disciplinary action.

NEW SECTION

WAC 196-31-070 Brief adjudicative proceedings—Denials based on failure to meet prerequisites for licensure, practice permit, or examination. The board adopts RCW 34.05.482 and 34.05.485 through 34.05.494 for adjudicative proceedings requested by applicants who are denied a license, practice permit, or opportunity to take an examination under chapter 18.210 RCW, because of failure to meet the prerequisites for said license, practice permit, or examination. The sole issue at the adjudicative proceeding shall be whether the applicant meets the prerequisites for the license, practice permit, or examination.

WSR 00-04-066

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed January 31, 2000, 11:50 a.m.]

Continuance of WSR 00-01-195.

Preproposal statement of inquiry was filed as WSR 99-03-091.

Title of Rule: Grape virus quarantine, chapter 16-483 WAC.

Purpose: To protect the state's grape and grape related industries from establishment of plant virus diseases commonly found in stock from other areas of the nation.

Statutory Authority for Adoption: Chapters 15.13 and 17.24 RCW.

Statute Being Implemented: Chapters 15.13 and 17.24 RCW.

Summary: The proposed amendments to the existing quarantine eliminate one viral disease (stem pitting) from the list of quarantine diseases. They also convert the rule to clear and readable format and utilize terminology consistent with current industry practice and statutory language. Some provisions have been removed or repealed because they duplicate provisions of statute.

Reasons Supporting Proposal: Sophisticated new methods of testing have found stem pitting virus in certified planting stock from California, which has historically supplied significant portions of the wine grape industry. There is currently no practical way to segregate less active strains of the virus or to produce in-state uninfected planting stock in adequate amounts to supply Washington industry. This action will bring the rule into compliance with the principles of plant quarantine and NAPPO standards.

Name of Agency Personnel Responsible for Drafting: Mary A. Martin Toohey, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1907; Implementation and Enforcement: Tom Wessels, 1111 Washington Street, Olympia, WA 98504-2560, (360) 902-1984.

Name of Proponent: Washington State Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule preserves Washington's wine grape and other grape related industries from establishment of several grape virus diseases common in most other states. This confers an advantage to Washington growers, as their stock is healthier and more desirable, and it may confer a market advantage over grape planting stock from other areas. Since the remaining viruses are not known to occur in this state, the rule changes will bring the rule into compliance with proposed NAPPO standards, facilitating trade in the NAFTA community.

Proposal Changes the Following Existing Rules: The proposal removes one of the four viruses currently listed as quarantine pests from the existing rule. The proposal responds to recent discovery of stem pitting virus in certified grape planting stock from the California program. There is no evidence of stem pitting virus in Washington-produced certified planting stock; however, there is not enough in-state production of grapevines to supply current needs of our industry. California stock, which still certified for the remaining three viruses, is the most virus-free stock available to fill the remaining need. The effect of this rule would be to allow importation of California certified stock to continue, even though it is no longer certified as stem pitting free. Another effect of this rule change would be to bring the rule into compliance with NAPPO standards and the accepted

principles of plant quarantine, as it appears an unknown number of Washington vineyards planted in the past from what was thought to be stem pitting-free stock may actually be infected. Since the disease appears to already be established to an unknown extent in this state, a quarantine for this disease may no longer be justified.

Other changes involve alterations of terminology to reflect current industry practice and statutory language, removal of provisions duplicated in the enabling statutes, and use of clear and readable format.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rule changes will have a net neutral or beneficial effect on affected parties. The current rule requires that all grape planting stock imported from other states be certified free from four virus diseases, including stem pitting. This has historically limited the source of most grape planting stock used in Washington to in-state production (which cannot currently supply the state industry's needs) and to California certified stock. Due to a very recent change in circumstances (that is, the decertification of California certified stock for stem pitting virus), continuing this restriction would eliminate a necessary source of planting stock for next spring and beyond, and there is no anticipated adequate substitute source available at this time. Continuation of the current rule, without the proposed changes, would particularly negatively impact the Washington wine grape production industry. Also, since it appears that stem pitting virus has already unknowingly been imported into this state, it does not appear that continuing to allow California certified stock to be imported will materially negatively affect the existing long-term health of Washington vineyards.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. The Washington State Department of Agriculture is not a listed agency in section 201.

Hearing Location: WSU Irrigated Agriculture Research and Extension Center (IAREC), West Building Conference Room, 24106 North Bunn Road, Prosser, WA, on February 10, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Mary Frazee by February 3, 2000, TDD (360) 902-1996, or (360) 902-1976.

Submit Written Comments to: Mary A. Martin Toohey, Assistant Director, Washington State Department of Agriculture, Laboratory Services Division, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2094, by February 10, 2000.

Date of Intended Adoption: February 16, 2000.

January 31, 2000

Mary A. Martin Toohey
Assistant Director

WSR 00-04-075
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed February 1, 2000, 11:12 a.m.]

Continuance of WSR [99-23-067].

Preproposal statement of inquiry was filed as WSR 98-24-093.

Title of Rule: Ergonomics.

Purpose: This continuance is needed to extend the written comment period deadline from February 14, 2000, to February 24, 2000. This will allow additional time for public input to the proposed ergonomics rule.

Statutory Authority for Adoption: RCW 49.17.010, [49.17].040, [49.17].050.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: The written comment period is being extended to allow greater time for public comment on the proposed ergonomics rule. The comment period is being extended from February 14, 2000, to February 24, 2000.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael A. Silverstein, Tumwater, (360) 902-5495.

Name of Proponent: Department of Labor and Industries, governmental.

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

Submit Written Comments to: Jennie Hays, Project Manager, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-4620, by 5:00 p.m. on February 24, 2000. In addition to written comments, the department will accept comments submitted to fax (360) 902-5529 or by e-mail at ergorule@lni.wa.gov. Comments submitted by fax must be ten pages or less.

Date of Intended Adoption: May 1, 2000.

January 31, 2000

Gary Moore
 Director

WSR 00-04-083
PROPOSED RULES
SECRETARY OF STATE
 [Filed February 1, 2000, 4:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-16-117.

Title of Rule: Use of electronic imaging systems for the maintenance of public records.

Purpose: To provide standards and prescribe practices for the effective long-term storage and maintenance of public records on electronic imaging systems.

Other Identifying Information: Amending chapter 434-663 WAC.

Statutory Authority for Adoption: RCW 40.14.020(6).

Statute Being Implemented: RCW 40.14.020(6).

Summary: These proposed amendments update existing rules to reflect changes in the relevant technologies and prescribe standards and practices to protect the integrity of public records.

Reasons Supporting Proposal: Imaging and information technologies have advanced significantly since these regulations were adopted in 1994.

Name of Agency Personnel Responsible for Drafting: Donald Whiting, Legislative Building, Olympia, WA 98504, (360) 902-4148; Implementation and Enforcement: Phil Coombs, 1129 Washington S.E., Olympia, WA 98504, (360) 586-2660.

Name of Proponent: Division of Archives and Records Management, Office of the Secretary of State, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: These proposed amendments update existing rules and prescribe standards and practices for the effective long-term storage and maintenance of public records on electronic imaging systems to protect the integrity of public records stored on those systems.

Proposal Changes the Following Existing Rules: A majority of the sections in chapter 434-663 WAC are amended to modernize the terminology, incorporate references to new technologies, and cite current industry standards and practices.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules will not impose costs on any businesses.

RCW 34.05.328 does not apply to this rule adoption. These rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Hearing Location: Room 172, Department of Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504, on March 16, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Vicki Meyer by March 14, 2000, TDD (800) 422-8683, or (360) 902-4151.

Submit Written Comments to: P.O. Box 40220, Olympia, WA 98504, fax (360) 586-5629, by March 14, 2000.

Date of Intended Adoption: March 20, 2000.

February 1, 2000

Donald F. Whiting

Assistant Secretary of State

((LEGALITY)) THE USE OF ELECTRONIC ((IMAGING)) INFORMATION SYSTEMS ((USED)) FOR MANAGING ((AND STORING)) PUBLIC RECORDS

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-100 Legality. The purpose of this chapter is to establish standards and recommended practices for the creation, preservation, access to, and retention of public records on electronic imaging systems. Electronic imaging systems may ~~((be))~~ legally be used for recording, producing,

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reproducing, maintaining, and storing public records (~~(provided that they materially))~~ if:

(1) ~~Those systems~~ meet the standards set forth in this ~~((regulation))~~ chapter.

(2) ~~The systems are used in accordance with this chapter;~~ and

(3) ~~The retention and disposition of the original and copies of records maintained on those systems~~ regardless of media are scheduled, ~~maintained, and disposed of~~ in accordance with chapter 40.14 RCW. Nothing in this chapter can be construed to limit the admissibility ~~of any public record~~ as evidence ~~((of any public record. The purpose of this regulation is the preservation of information, and the facilitation of the migration of archival, permanent, and long-term records)).~~

NEW SECTION

WAC 434-663-270 Pixel. Pixel is an abbreviated term meaning picture element. A pixel is the smallest element of an image that can be displayed on a screen or printer. Its purpose is to represent the color and light intensity value at a specific point in the image.

NEW SECTION

WAC 434-663-280 Record series. A group of records that are created, used, filed and disposed of as a unit because they relate to a particular subject or function, result from the same activity, or document a specific kind of transaction.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-300 Quality of digital images. Ensuring the quality of ~~((digital))~~ digitized images requires exercising control over ~~((six processes:))~~ the conversion of the original image to digital data, enhancement of the digital image if necessary, compression of the digital data for storage, decompression of digital data for retrieval, displaying the image, and printing the image.

NEW SECTION

WAC 434-663-305 Scanning density. Documents containing type fonts no smaller than six-point shall be scanned at a minimum density of 200 dots per inch (dpi). Documents containing type fonts smaller than six-point, engineering drawings, maps, line art, and similar documents with fine detail or poor contrast, shall be scanned at a minimum density of 300 dots per inch. Scanner quality control procedures shall conform to ANSI/AIIM MS44-1988, Recommended Practice for Quality Control of Images Scanners.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-310 Image enhancement ~~((of original image)).~~ Digital image enhancement ~~((can be used to ensure readability of the documents and to improve the accuracy of~~

~~the copy by scanning these documents using varying enhancement algorithm settings. Use the best scanned images as the operational criteria for acceptable image quality))~~ uses software algorithms to remove image data, either selectively or automatically, to improve image appearance. The use of image enhancement software may result in the loss of substantial detail and may affect a document's admissibility as evidence in court.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-320 ~~((Compressing image))~~ Compression and decompression of data ~~((for storage)).~~ Electronic imaging systems ~~((containing archival, permanent, or long-term information must use a compression technique that meets either a published or de facto standard. If such a technique cannot be used, the software vendor must provide a bridge to a standard))~~ shall use the Consultative Committee on International Telegraphy and Telephony (CCITT) Group 3 or Group 4 compression and decompression techniques without proprietary alterations to the algorithm.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-400 Usability of image and index data over time. Maintaining access to and usability of electronic records requires ~~((ensuring continuous readability and intelligibility. Readability means))~~ the ability to process images both on the computer system on which they were created and on ~~((different))~~ alternate computer systems without loss of information. ~~((Intelligibility means that humans can comprehend the information the computer reads. Ensuring readability and intelligibility of electronic records over time entails))~~ maintenance of proper environmental conditions, periodic recopying, and strategies to preserve data by migration from one generation of technology to another through a commitment to open architecture.

NEW SECTION

WAC 434-663-405 Recordkeeping capabilities. Electronic information systems must have the following electronic recordkeeping capabilities:

- (1) Tracking information at the records series level.
- (2) Ability to properly eliminate or dispose of records that exceed their retention periods as established under RCW 40.14.050 through 40.14.070.
- (3) Record authentication functions as needed to meet legal, audit, and administrative requirements including maintenance of the date and time of record creation or updating, the identity of the user or system that created or updated the record, and a log of disposition actions.
- (4) Protection against unauthorized access to records by means of a password hierarchy or other system security.
- (5) Indexing capabilities that provide flexibility in associating a record series with multiple subject categories, that facilitate access and retrieval, and that provide links to related records or supporting documentation.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-410 Defining indexing requirements. The selection of indexing ~~((parameters is))~~ methods and terms should be based on an analysis of the retrieval requirements associated with a particular application, and must ~~((insure rapid))~~ ensure efficient and accurate retrieval of images and information for any purposes required by law. ~~((For systems containing archival, permanent, or long-term records, index))~~ The design ~~((must))~~ and content of the index should utilize standard attributes wherever available and take into account the security of the index and the retrieval requirements of both current and future users of the records ~~((;))~~ including ~~((government))~~ agency personnel ~~((as well as)),~~ researchers, and the ~~((general))~~ public.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-420 Preservation strategy. ~~((A preservation strategy must be developed and implemented))~~ For ~~((each))~~ an electronic image system containing ~~((long-term, permanent, or))~~ public records with a retention period of ten years or longer or records containing archival information ~~((Four preservation strategy options are acceptable)),~~ one or more of the following preservation strategies must be employed:

- (1) Retain the original paper documents; ~~((or))~~
- (2) Microfilm the original documents; ~~((or))~~
- (3) Recopy optical media ~~((when necessary to insure the integrity of the information, and recopy))~~ and magnetic media at least every ten years; or
- (4) ~~((Print images on microfilm.))~~ Digitally record the electronic images on industry standard microfilm at the same density at which they were scanned.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-430 Header information on image files. ~~((A de facto or industry standard header label on image files or a gateway to a nonproprietary header label shall be used for imaging systems that contain long-term, permanent, or archival information. This will allow access to the information by dissimilar systems now and in the future.))~~ An electronic imaging system containing public records with a retention period of ten years or longer or records containing archival information must use a nonproprietary file header format such as Tagged Image File Format (TIFF) or a header that complies with ANSI/AIM MS53, File Format for Storage and Exchange of Images, or Bi-level File Format: Part I.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-440 Security backup ~~((for recovery))~~ copies. ~~((In order to facilitate a recovery of lost information and the restoration of system operations in the event of a malfunction or other disaster, properly implemented backup pro-~~

~~cedures must be in place.))~~ Security backup ~~((security))~~ copies ~~((of document images and indexes through either simultaneous recording or periodic batch mode backup))~~ should be made of public records stored on electronic media: hard drives, floppy discs, or tapes. The methods and frequency of backup should be determined by the amount of information that would be lost if data had to be restored using the previous backup. Since backup copies are also subject to media failure, it is recommended that redundant (multiple) backup copies be made and stored at different locations, with one copy stored off-site. In order to ensure accessibility of data, at least one redundant backup copy should be recorded in a non-proprietary format. Security backup copy media should be inspected for quality using de facto or industry standards on a regular schedule and replaced before predicted failure.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-490 ~~((Archival, permanent, and long-term off-line))~~ Environmental standards or best practices for storage ~~((environment))~~ of electronic media. Electronic media should be stored in a dust-free ~~((area with a stable temperature between sixty and seventy degrees Fahrenheit with a fluctuation of plus or minus two degrees, and relative humidity between twenty and forty five percent with a fluctuation of plus or minus five percent. Media should be stored in a suitable container to protect against particulate and fingerprints. Optical disks and magnetic tapes should be stored vertically. The reliability of the data should be tested every ten years. Magnetic tape should be precision rewound every five years and before each use. Every ten years, data stored on magnetic tape shall be transferred to pretested fresh stock))~~ environment under the following environmental conditions:

- (1) Temperature ranges meeting standards or best practices recommended for the media stored;
- (2) A relative humidity range meeting standards or best practices recommended for the media stored;
- (3) Media should be in a closed container to protect from dust and fingerprints; and
- (4) Magnetic tape should be rewound in accordance with de facto or industry standards, or to best practices.

((FUNCTIONALITY OF)) SYSTEM ((COMPONENTS)) REQUIREMENTS

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-530 ~~((Technical))~~ System documentation. Detailed technical documentation ~~((on system components, application software and operating systems is essential, and shall be maintained to facilitate long-term access to archival, permanent, and long-term records))~~ is needed to facilitate future system access. Minimum documentation includes:

- (1) A hardware systems administrator manual specifying hardware, cabling, and communications configurations;

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(2) Software applications documentation, including user manuals and design documentation;

(3) Operational procedures for scanning, indexing and verifying images;

(4) Current security and system control procedures, including access to codes and passwords, and a log of those changes, indicating the date, identity of the person making the changes and the reason for the change; and

(5) Written procedures for periodic back-ups, including schedules and secure off-site storage locations for those back-ups. Agencies will maintain one copy of current documentation on-site and one current copy in designated secure storage.

RETENTION, SCHEDULING, AND DISPOSITION OF RECORDS

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-600 Retention scheduling and disposition of public records. Conversion to an imaging system does not automatically authorize the destruction of the ~~((original records))~~ source documents for which images have been created. Destruction of, or changes to the retention of any public records due to conversion to or the use of a new media requires legal approval of the state or local records committee of the state of Washington through the retention and disposition scheduling process in accordance with chapter 40.14 RCW and chapter 434-635 WAC.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-610 Records retention scheduling for records on imaging system. The retention scheduling of ~~((information to be placed on an imaging system must))~~ public records to be created, maintained, accessed, distributed, or preserved on electronic imaging systems should be done prior to the creation or copying of the records~~((, and may require a cost benefit analysis)).~~ ~~((Decisions about the))~~ Retention ~~((value of))~~ schedules shall be based on the information ~~((stored on an imaging system are related to the value of the original information included in the system))~~ content and function of the record series. Schedules shall not be based on the information's format or storage medium. Record series documenting electronic information system design, operation, and maintenance must also be included on the records retention schedule approved for the agency using the system.

AMENDATORY SECTION (Amending WSR 94-04-102, filed 2/1/94, effective 3/7/94)

WAC 434-663-620 Retention scheduling of security backup copies. Security backup copies of records ~~((with permanent legal value, stored on electronic media should have a security backup copy on another type of media. If this is impractical, the user must obtain permission to retain elec-~~

~~tronic copies as the sole media from the state records committee or the local records committee on a case-by-case basis as part of the records scheduling process. Such permission will be granted if there are strong backup systems in place, and systems and procedures in place for periodic recopying)), regardless of format, shall be scheduled as separate record series with specific retention and disposition requirements.~~

NEW SECTION

WAC 434-663-640 Requests for scheduling exceptions. Agencies may submit, for review by the state or local records committee, retention schedules for long-term or permanent records for which the primary copy will be kept in electronic format only. These requests should demonstrate the need for continued retention in electronic format based on access requirements, the agency's commitment to bear the cost of converting the electronic records to new technologies as existing ones become obsolete. Agencies may request review of electronic imaging systems and related procedures.

NEW SECTION

WAC 434-663-770 Continued access to data. If access to data in an existing electronic imaging system cannot be maintained for the specified retention period of the records stored in that system, the images must be migrated at the time of acquisition or implementation of a new system. Access to electronic data which has not been migrated to a new system requires preserving the data, the storage medium in which the data is kept, and whatever hardware, operating system, and applications software is needed to view and use the data.

NEW SECTION

WAC 434-663-780 Data conversion costs. The adoption of new electronic imaging systems may require significant expenditures for conversion of information maintained in existing electronic formats to the formats required by new imaging systems. System planning should include analysis of future information access, maintenance, data conversion, and security costs.

NEW SECTION

The following sections of the Washington Administrative Code are recodified without amendment:

Old WAC Number	New WAC Number
434-663-450	434-663-750

The following sections of the Washington Administrative Code are recodified as amended:

Old WAC Number	New WAC Number
434-663-400	434-663-700
434-663-410	434-663-710
434-663-420	434-663-720
434-663-430	434-663-730
434-663-440	434-663-740

434-663-490

434-663-760

These recodified sections, together with the new sections 434-663-770 and 434-663-480 shall constitute a new subchapter in chapter 434-663 WAC to be titled, Provision for continued access.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 434-663-460 Stability of media.
- WAC 434-663-470 Storage media.
- WAC 434-663-480 Optical media durability.
- WAC 434-663-510 Backward compatibility.
- WAC 434-663-520 Availability of index data base for off-line media.

**WSR 00-04-088
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed February 2, 2000, 9:11 a.m.]**

Original Notice.

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

Title of Rule: Requirements for industrial radiography and determination of prior dose.

Purpose: To bring radiation protection regulations into conformance with the United States Nuclear Regulatory Commission rules on industrial radiographic operations, determination of prior dose, and to make other corrections and housekeeping changes.

Statutory Authority for Adoption: RCW 70.98.050.

Statute Being Implemented: RCW 70.98.050.

Summary: The proposed rule significantly updates requirements for industrial radiographic operations (chapter 246-243 WAC, and WAC 246-235-084), clarifies the requirements for determining prior occupational dose (WAC 246-221-020), breaks up a long section into three smaller sections (WAC 246-235-080, 246-235-084, and 246-235-086), and corrects cross-referencing.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Terry C. Frazee, Mailstop 47827, 7171 Cleanwater Lane, Olympia, WA 98504-7827, (360) 236-3221.

Name of Proponent: Division of Radiation Protection, Department of Health, governmental.

Rule is necessary because of federal law, 60 F.R. 36038, 62 F.R. 28948, and 63 F.R. 37059.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule updates and establishes new requirements for industrial radiographic operations including requiring licensees to use only certified radiographers after an implementation date specified in the rule, requiring two qualified individuals

to be present whenever field site radiography is performed, and specifying the requirements for entities wishing to certify radiographers. The rule also clarified when the licensee must determine prior occupational dose, and corrects the definition of several terms. These changes are required for compatibility with the United States Nuclear Regulatory Commission. The anticipated effect of these changes is to bring our radioactive materials licensees into conformance with national standards.

Proposal Changes the Following Existing Rules: WAC 246-220-007 is amended to correct the definition of "ALARA"; WAC 246-220-010 is amended to correct the definition of "sealed source"; WAC 246-221-020 is amended to delete wording that conflicts with the federal rule; WAC 246-235-080 is renamed to reflect its new emphasis on medical licensing requirements and subsections (5) and (6) are deleted to become, respectively, new sections on industrial radiography licensing requirements (WAC 246-235-084) and environmentally significant licensing action requirements (WAC 246-235-086); WAC 246-235-090 is amended to correct cross references; WAC 246-243-020 is amended to include new definitions and correct existing definitions; WAC 246-243-030 is amended to require two qualified individuals at temporary job sites; WAC 246-243-050 is amended to clarify requirements for inspecting radiographer job performance and changing the frequency from every three months to every six months; WAC 246-243-060 is amended to require that keys be removed from locks when devices are not under direct observation; WAC 246-243-080 is amended to provide calibration specifications for logarithmic and digital instruments; WAC 246-243-090 is amended to allow long-term storage without requiring a leak test until removed, and adds a leak test requirement for devices containing depleted uranium; WAC 246-243-100 is amended to include devices containing depleted uranium in the inventory requirement; WAC 246-243-110 is amended to clarify information to be included in use logs; WAC 246-243-120 is amended to clarify equipment inspection, maintenance and recordkeeping requirements; WAC 246-243-130 is amended to require certification and training requirements for radiographic personnel; WAC 246-243-140 is amended to clarify contents of operating and emergency procedures; WAC 246-243-150 is amended to dosimetry requirements and actions to be taken if the dosimeter is found to be off-scale, lost or damaged; WAC 246-243-160 is amended to correct terminology; WAC 246-243-180 is amended to clarify that posting is always required; WAC 246-243-190 is amended to clarify when surveys are required; WAC 246-243-195 is amended to require licensees to report to the department when radiographic operations are about to exceed 180 days at a temporary job site; WAC 246-243-200 is amended to clarify what records are required to be available at temporary job sites; WAC 246-243-210 is repealed; WAC 246-243-220 is amended to clarify alarm system requirements; WAC 246-243-230 is amended to clarify minimum training subjects; WAC 246-252-001 is amended to correct cross reference; WAC 246-252-030 is amended to correct cross reference; and WAC 246-254-150 is amended to correct cross reference.

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No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule change is exempt from the small business impact statement requirement under RCW 19.85025(3) because it adopts federal regulations without material change or clarifies the language of a rule or otherwise makes housekeeping changes. This rule includes several federal rule changes for which "regulatory flexibility certifications" were prepared stating that the "rule will not have a significant economic impact upon a substantial number of small entities."

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. Under RCW 34.05.328 (5)(b)(iii) and (iv), RCW 34.05.328 does not apply to this rule adoption because this rule adopts federal regulations without material change or clarifies the language of a rule or otherwise makes housekeeping changes. This rule is for conformance with the US NRC regulations and is mandatory under our agreement state status with the federal government.

Hearing Location: Department of Health, Melbourne Tower, 1511 3rd Avenue, Room 314, Seattle, WA, on March 9, 2000, at 1:30.

Assistance for Persons with Disabilities: Contact Terry Frazee by March 3, 2000, TDD (800) 833-6388.

Submit Written Comments to: Terry C. Frazee, fax (360) 236-2255, by March 9, 2000.

Date of Intended Adoption: March 13, 2000.

February 1, 2000

Mary C. Selecky

Secretary

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-220-007 Statement of philosophy. In accordance with the recommendations of the Environmental Protection Agency, formerly the Federal Radiation Council, approved by the president of the United States of America, persons engaged in activities under licenses issued by the Washington state department of health pursuant to the Atomic Energy Act of 1954, as amended, shall, in addition to complying with the requirements set forth in chapter 246-221 WAC, make every reasonable effort to maintain radiation exposures, and releases of radioactive materials in effluents to unrestricted areas, as low as is reasonably achievable. Such persons should make particular efforts to keep the radiation exposure of an embryo or fetus as low as is reasonably achievable during the entire gestation period as recommended by the National Council on Radiation Protection and Measurements. The term "as low as is reasonably achievable" means making every reasonable effort to maintain exposures to radiation as far below the dose limits in these regulations as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to the utilization of nuclear energy, ionizing radiation, and radioactive materials in the public interest.

AMENDATORY SECTION (Amending WSR 99-15-105, filed 7/21/99, effective 8/21/99)

WAC 246-220-010 Definitions. As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain part will be found in that part.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator produced material" means any material made radioactive by exposing it in a particle accelerator.

(3) "Act" means Nuclear energy and radiation, chapter 70.98 RCW.

(4) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

(5) "Adult" means an individual eighteen or more years of age.

(6) "Agreement state" means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under section 274 b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(7) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of particulates, dusts, fumes, mists, vapors, or gases.

(8) "Airborne radioactivity area" means a room, enclosure, or operating area in which airborne radioactive material exists in concentrations (a) in excess of the derived air concentration (DAC) specified in WAC 246-221-290, Appendix A, or (b) to such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or twelve DAC-hours.

(9) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(10) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in WAC 246-221-290.

(11) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive materials regulated by the department.

(12) "Becquerel" (Bq) means the SI unit of activity. One becquerel is equal to 1 disintegration or transformation per second (s^{-1}).

(13) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these regulations, "radiobioassay" is an equivalent term.

(14) "Byproduct material" means: (a) Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (b) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition.

(15) "Calendar quarter" means not less than twelve consecutive weeks nor more than fourteen consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method of determining calendar quarters for purposes of these regulations except at the beginning of a calendar year.

(16) "Calibration" means the determination of (a) the response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or (b) the strength of a source of radiation relative to a standard.

(17) "CFR" means Code of Federal Regulations.

(18) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: For Class D, Days, of less than ten days, for Class W, Weeks, from ten to one hundred days, and for Class Y, Years, of greater than one hundred days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms. For "class of waste" see WAC 246-249-040.

(19) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(20) "Committed dose equivalent" ($H_{T,50}$) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the fifty-year period following the intake.

(21) "Committed effective dose equivalent" ($H_{E,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50} = \sum w_T H_{T,50}$).

(22) "Constraint" or dose constraint means a value above which specified licensee actions are required.

(23) "Controlled area." See "Restricted area."

(24) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} transformations per second (tps).

(25) "Declared pregnant woman" means a woman who has voluntarily informed her employer, in writing, of her pregnancy, and her estimated date of conception.

(26) "Deep dose equivalent" (H_d), which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2).

(27) "Department" means the department of health, division of radiation protection, which has been designated as the state radiation control agency.

(28) "Depleted uranium" means the source material uranium in which the isotope Uranium-235 is less than 0.711 percent by weight of the total uranium present. Depleted uranium does not include special nuclear material.

(29) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of two thousand hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for two thousand hours in a year. DAC values are given in WAC 246-221-290.

(30) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take two thousand DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(31) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these regulations, "radiation dose" is an equivalent term.

(32) "Dose commitment" means the total radiation dose to a part of the body that will result from retention in the body of radioactive material. For purposes of estimating the dose commitment, it is assumed that from the time of intake the period of exposure to retained material will not exceed fifty years.

(33) "Dose equivalent (H_T)" means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

(34) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these regulations. For purposes of these regulations, "limits" is an equivalent term.

(35) "Dosimetry processor" means a person that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(36) "dpm" means disintegrations per minute. See also "curie."

(37) "Effective dose equivalent (H_E)" means the sum of the products of the dose equivalent to each organ or tissue (H_T) and the weighting factor (w_T) applicable to each of the body organs or tissues that are irradiated ($H_E = \sum w_T H_T$).

(38) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(39) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, without respect to their intended use.

(40) "Exposure" means (a), when used as a verb, being exposed to ionizing radiation or to radioactive material, or (b), when used as a noun, the quotient of ΔQ by Δm where " ΔQ " is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass " Δm " are completely stopped in air. The special unit of exposure is the roentgen (R) and the SI equivalent is the coulomb per kilogram. One roentgen is equal to 2.58×10^{-4} coulomb per kilogram of air.

(41) "Exposure rate" means the exposure per unit of time, such as roentgen per minute and milliroentgen per hour.

(42) "External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

(43) "Extremity" means hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

(44) "Eye dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm^2).

(45) "Former United States Atomic Energy Commission (AEC) or United States Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(46) "Generally applicable environmental radiation standards" means standards issued by the United States Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(47) "Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to an absorbed dose of 1 joule/kilogram (100 rad).

(48) "Healing arts" means the disciplines of medicine, dentistry, osteopathy, chiropractic, podiatry, and veterinary medicine.

(49) "High radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from any source of radiation or from any surface that the radiation penetrates. For purposes of these regulations, rooms or areas in which diagnostic x-ray systems are used for healing arts purposes are not considered high radiation areas.

(50) "Human use" means the intentional internal or external administration of radiation or radioactive material to human beings.

(51) "Immediate" or "immediately" means as soon as possible but no later than four hours after the initiating condition.

(52) "IND" means investigatory new drug for which an exemption has been claimed under the United States Food, Drug and Cosmetic Act (Title 21 CFR).

(53) "Individual" means any human being.

(54) "Individual monitoring" means the assessment of:

(a) Dose equivalent (i) by the use of individual monitoring devices or (ii) by the use of survey data; or

(b) Committed effective dose equivalent (i) by bioassay or (ii) by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours.

(55) "Individual monitoring devices" means devices designed to be worn by a single individual for the assessment of dose equivalent. For purposes of these regulations, individual monitoring equipment, personnel monitoring device, personnel dosimeter, and dosimeter are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal air sampling devices.

(56) "Inspection" means an official examination or observation by the department including but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the department.

(57) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(58) "Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

(59) "Irretrievable source" means any sealed source containing licensed material which is pulled off or not connected to the wireline downhole and for which all reasonable effort at recovery, as determined by the department, has been expended.

(60) "License" means a license issued by the department in accordance with the regulations adopted by the department.

(61) "Licensed material" means radioactive material received, possessed, used, transferred, or disposed under a general or specific license issued by the department.

(62) "Licensee" means any person who is licensed by the department in accordance with these regulations and the act.

(63) "Licensing state" means any state with regulations equivalent to the suggested state regulations for control of radiation relating to, and an effective program for, the regulatory control of NARM and which has been granted final designation by the Conference of Radiation Control Program Directors, Inc.

(64) "Lost or missing licensed material" means licensed material whose location is unknown. This definition includes licensed material that has been shipped but has not reached its

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planned destination and whose location cannot be readily traced in the transportation system.

(65) "Member of the public" means an individual except when the individual is receiving an occupational dose.

(66) "Minor" means an individual less than eighteen years of age.

(67) "Monitoring" means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these regulations, radiation monitoring and radiation protection monitoring are equivalent terms.

(68) "NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include by-product, source, or special nuclear material. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), NARM refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(69) "Natural radioactivity" means radioactivity of naturally occurring nuclides.

(70) "NDA" means a new drug application which has been submitted to the United States Food and Drug Administration.

(71) "Nonstochastic effect" means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these regulations, a "deterministic effect" is an equivalent term.

(72) "Nuclear Regulatory Commission" (NRC) means the United States Nuclear Regulatory Commission or its duly authorized representatives.

(73) "Occupational dose" means the dose received by an individual in the course of employment in which the individual's assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee, registrant, or other person. Occupational dose does not include dose received: From background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released pursuant to chapters 246-239 and 246-240 WAC, from voluntary participation in medical research programs, or as a member of the public.

(74) "Ore refineries" means all processors of a radioactive material ore.

(75) "Particle accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV.

(76) "Permittee" means a person who has applied for, and received, a valid site use permit for use of the low-level waste disposal facility at Hanford, Washington.

(77) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any

legal successor, representative, agent or agency of the foregoing, but shall not include federal government agencies.

(78) "Personal supervision" means supervision such that the supervisor is physically present at the facility and in such proximity that contact can be maintained and immediate assistance given as required.

(79) "Personnel monitoring equipment." See individual monitoring devices.

(80) "Pharmacist" means an individual licensed by this state to compound and dispense drugs, and poisons.

(81) "Physician" means an individual licensed by this state to prescribe and dispense drugs in the practice of medicine.

(82) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(83) "Practitioner" means an individual licensed by the state in the practice of a healing art (i.e., physician, dentist, podiatrist, chiropractor, etc.).

(84) "Public dose" means the dose received by a member of the public from exposure to sources of radiation under the licensee's or registrant's control or to radiation or radioactive material released by the licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released pursuant to chapters 246-239 and 246-240 WAC, or from voluntary participation in medical research programs.

(85) "Qualified expert" means an individual who has demonstrated to the satisfaction of the department he/she has the knowledge, training, and experience to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. The department reserves the right to recognize the qualifications of an individual in specific areas of radiation protection.

(86) "Quality factor" (Q) means the modifying factor, listed in Tables I and II, that is used to derive dose equivalent from absorbed dose.

TABLE I
QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to A Unit Dose Equivalent ^a
X, gamma, or beta radiation and high-speed electrons	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

^a Absorbed dose in rad equal to 1 rem or the absorbed dose in gray equal to 1 Sv.

If it is more convenient to measure the neutron fluence rate rather than to determine the neutron dose equivalent rate in sievert per hour or rem per hour as required for Table I, then 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these regulations, be assumed to result from a total fluence of 25 million neutrons per square centi-

meter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the fluence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II
MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

Neutron Energy (MeV)	Quality Factor ^a (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
(thermal) 2.5 x 10 ⁻⁸	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻⁷	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻⁶	2	810 x 10 ⁶	810 x 10 ⁸
1 x 10 ⁻⁵	2	810 x 10 ⁶	810 x 10 ⁸
1 x 10 ⁻⁴	2	840 x 10 ⁶	840 x 10 ⁸
1 x 10 ⁻³	2	980 x 10 ⁶	980 x 10 ⁸
1 x 10 ⁻²	2.5	1010 x 10 ⁶	1010 x 10 ⁸
1 x 10 ⁻¹	7.5	170 x 10 ⁶	170 x 10 ⁸
5 x 10 ⁻¹	11	39 x 10 ⁶	39 x 10 ⁸
1	11	27 x 10 ⁶	27 x 10 ⁸
2.5	9	29 x 10 ⁶	29 x 10 ⁸
5	8	23 x 10 ⁶	23 x 10 ⁸
7	7	24 x 10 ⁶	24 x 10 ⁸
10	6.5	24 x 10 ⁶	24 x 10 ⁸
14	7.5	17 x 10 ⁶	17 x 10 ⁸
20	8	16 x 10 ⁶	16 x 10 ⁸
40	7	14 x 10 ⁶	14 x 10 ⁸
60	5.5	16 x 10 ⁶	16 x 10 ⁸
1 x 10 ²	4	20 x 10 ⁶	20 x 10 ⁸
2 x 10 ²	3.5	19 x 10 ⁶	19 x 10 ⁸
3 x 10 ²	3.5	16 x 10 ⁶	16 x 10 ⁸
4 x 10 ²	3.5	14 x 10 ⁶	14 x 10 ⁸

^a Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-cm diameter cylinder tissue-equivalent phantom.

^b Monoenergetic neutrons incident normally on a 30-cm diameter cylinder tissue-equivalent phantom.

(87) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately thirteen consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(88) "Rad" means the special unit of absorbed dose. One rad equals one-hundredth of a joule per kilogram of material; for example, if tissue is the material of interest, then 1 rad

equals 100 ergs per gram of tissue. One rad is equal to an absorbed dose of 100 erg/gram or 0.01 joule/kilogram (0.01 gray).

(89) "Radiation" means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these regulations, ionizing radiation is an equivalent term. Radiation, as used in these regulations, does not include magnetic fields or nonionizing radiation, such as radiowaves or microwaves, visible, infrared, or ultraviolet light.

(90) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005

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rem) in one hour at thirty centimeters from the source of radiation or from any surface that the radiation penetrates.

(91) "Radiation machine" means any device capable of producing ionizing radiation except those devices with radioactive materials as the only source of radiation.

(92) "Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection regulations and has been assigned such responsibility by the licensee or registrant.

(93) "Radiation source." See "Source of radiation."

(94) "Radioactive material" means any material (solid, liquid, or gas) which emits radiation spontaneously.

(95) "Radioactive waste" means any radioactive material which is no longer of use and intended for disposal or treatment for the purposes of disposal.

(96) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(97) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base.

(98) "Registrable item" means any radiation machine except those exempted by RCW 70.98.180 or exempted by the department pursuant to the authority of RCW 70.98.080.

(99) "Registrant" means any person who is registered by the department or is legally obligated to register with the department in accordance with these regulations and the act.

(100) "Registration" means registration with the department in accordance with the regulations adopted by the department.

(101) "Regulations of the United States Department of Transportation" means the regulations in 49 CFR Parts 170-189, 14 CFR Part 103, and 46 CFR Part 146.

(102) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

(103) "Research and development" means: (a) Theoretical analysis, exploration, or experimentation; or (b) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(104) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(105) "Restricted area" means any area to which access is limited by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to radiation and radioactive material. "Restricted area" shall not include any areas used for residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

(106) "Roentgen" (R) means the special unit of exposure. One roentgen equals 2.58×10^{-4} coulombs/kilogram of air.

(107) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(108) "Sealed source" means any ~~((device-containing))~~ radioactive material ~~((to be used as a source of radiation which has been constructed in such a manner as))~~ that is encased in a capsule designed to prevent leakage or the escape of ((any)) the radioactive material.

(109) "Shallow dose equivalent" (H_s), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm^2) averaged over an area of 1 square centimeter.

(110) "SI" means an abbreviation of the International System of Units.

(111) "Sievert" means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

(112) "Site area emergency" means events may occur, are in progress, or have occurred that could lead to a significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(113) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(114) "Source container" means a device in which radioactive material is transported or stored.

(115) "Source material" means: (a) Uranium or thorium, or any combination thereof, in any physical or chemical form, or (b) ores which contain by weight one-twentieth of one percent (0.05 percent) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material.

(116) "Source material milling" means the extraction or concentration of uranium or thorium from any ore processing primarily for its source material content.

(117) "Source of radiation" means any radioactive material, or any device or equipment emitting or capable of producing ionizing radiation.

(118) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the United States Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched in any of the foregoing, but does not include source material.

(119) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding three hundred fifty grams of contained U-235; Uranium-233 in quantities not exceeding two hundred grams; Plutonium in quantities not exceeding two hundred grams; or any combination of them in

accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed "1" (i.e., unity). For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175(\text{grams contained U-235})}{350} + \frac{50(\text{grams U-233})}{200} + \frac{50(\text{grams Pu})}{200} < 1$$

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(120) "Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, probabilistic effect is an equivalent term.

(121) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, release, disposal, or presence of sources of radiation. When appropriate, such evaluation includes, but is not limited to, tests, physical examinations, calculations and measurements of levels of radiation or concentration of radioactive material present.

(122) "Test" means (a) the process of verifying compliance with an applicable regulation, or (b) a method for determining the characteristics or condition of sources of radiation or components thereof.

(123) "These regulations" mean all parts of the rules for radiation protection of the state of Washington.

(124) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(125) "Total organ dose equivalent (TODE)" means the sum of the deep dose equivalent and the committed dose equivalent to the organ or tissue receiving the highest dose.

(126) "United States Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the department exercises functions formerly vested in the United States Atomic Energy Commission, its chairman, members, officers and components and transferred to the United States Energy Research and Development Administration and to the administrator thereof pursuant to sections 104 (b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814 effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public

Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(127) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

(128) "Unrestricted area" (uncontrolled area) means any area which is not a restricted area. Areas where the external dose exceeds 2 mrem in any one hour or where the public dose, taking into account occupancy factors, will exceed 100 mrem total effective dose equivalent in any one year must be restricted.

(129) "Very high radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a source of radiation or from any surface that the radiation penetrates.

(130) "Waste handling licensees" mean persons licensed to receive and store radioactive wastes prior to disposal and/or persons licensed to dispose of radioactive waste.

(131) "Week" means seven consecutive days starting on Sunday.

(132) "Weighting factor" w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

ORGAN DOSE WEIGHTING FACTORS

Organ or Tissue	w_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12
Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 ^a
Whole Body	1.00 ^b

^a 0.30 results from 0.06 for each of 5 "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

^b For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T=1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(133) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(134) "Worker" means an individual engaged in activities under a license or registration issued by the department and controlled by a licensee or registrant but does not include the licensee or registrant. Where the licensee or registrant is an individual rather than one of the other legal entities

defined under "person," the radiation exposure limits for the worker also apply to the individual who is the licensee or registrant. If students of age eighteen years or older are subjected routinely to work involving radiation, then the students are considered to be workers. Individuals of less than eighteen years of age shall meet the requirements of WAC 246-221-050.

(135) "Working level" (WL) means any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle energy. The short-lived radon daughters are — for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

(136) "Working level month" (WLM) means an exposure to one working level for one hundred seventy hours — two thousand working hours per year divided by twelve months per year is approximately equal to one hundred seventy hours per month.

(137) "Year" means the period of time beginning in January used to determine compliance with the provisions of these regulations. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-221-020 Determination of prior occupational dose. (1) For each individual who (~~may enter the licensee's or registrant's restricted area and~~) is likely to receive, in a year, an occupational dose requiring monitoring pursuant to WAC 246-221-090 and 246-221-100, the licensee or registrant shall:

(a) Determine the occupational radiation dose received during the current year; and

(b) Attempt to obtain the records of lifetime cumulative occupational radiation dose.

(2) Prior to permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:

(a) The internal and external doses from all previous planned special exposures; and

(b) All doses in excess of the limits, including doses received during accidents and emergencies, received during the lifetime of the individual.

(3) In complying with the requirements of subsection (1) of this section, a licensee or registrant may:

(a) Accept, as a record of the occupational dose that the individual received during the current year, a written signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; and

(b) Accept, as the record of lifetime cumulative radiation dose, an up-to-date Form RHF-4A, or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation expo-

sure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and

(c) Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.

(4) The licensee or registrant shall record the exposure history, as required by subsection (1) of this section, on Form RHF-4A, or other clear and legible record, of all the information required on that form. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report in preparing Form RHF-4A. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on Form RHF-4A indicating the periods of time for which data are not available.

(5) Licensees or registrants are not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed under the regulations in effect before January 1, 1994. Further, occupational exposure histories obtained and recorded on Form RHF-4 before January 1, 1994, would not have included effective dose equivalent, but may be used in the absence of specific information on the intake of radionuclides by the individual.

(6) If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall assume:

(a) In establishing administrative controls under WAC 246-221-010(6) for the current year, that the allowable dose limit for the individual is reduced by 12.5 mSv (1.25 rem) for each calendar quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and

(b) That the individual is not available for planned special exposures.

(7) The licensee or registrant shall retain the records on Form RHF-4A or equivalent until the department terminates each pertinent license requiring this record. The licensee or registrant shall retain records used in preparing Form RHF-4 or RHF-4A for three years after the record is made.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-080 Special requirements for issuance of (~~certain~~) specific licenses for medical use of radioactive material. (1) *Human use of radioactive material in institutions.* In addition to the requirements set forth in WAC 246-235-020 a specific license for human use of radioactive material in institutions will be issued if:

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(a) The applicant has appointed a radiation safety committee to coordinate the use of radioactive material throughout that institution and to maintain surveillance over the institution's radiation safety program. Membership of the committee should include a specialist (where applicable a physician) from each department where radioactive material is used, a representative of the institution's management, a representative of the nursing staff, and a person trained in radiation safety. The radiation safety committee shall meet at least quarterly. Minutes shall be taken and maintained for two years for inspection by the department;

(b) The applicant possesses adequate facilities for the clinical care of patients. The applicant is advised that construction of new radioisotope facilities and modification of existing facilities must also comply with the requirements of WAC 246-318-660 of the construction review section of the department;

(c) The physician(s) designated on the application as the individual user(s) has (or have) substantial experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients; and

(d) If the application is for a license to use unspecified quantities or multiple types of radioactive material, the applicant's staff has substantial experience in the use of a variety of radioactive materials for a variety of human uses.

(2) *Licensing of individual physicians for human use of radioactive material.* In addition to the requirements set forth in WAC 246-235-020 a specific license for the human use of radioactive material will be issued to an individual physician if:

(a) The applicant has access to a hospital possessing adequate facilities to hospitalize and monitor the applicant's radioactive patients whenever it is advisable;

(b) The applicant has extensive experience in the handling and administration of radioactive material and, where applicable, the clinical management of radioactive patients;

(c) The application is for use in the applicant's practice in an office outside a medical institution; and

(d) ~~(The department will approve an application)~~ If the application is for use by an individual physician or group of physicians for a specific license to receive, possess or use radioactive material on the premises of a medical institution, the department will issue a specific license only if:

(i) The use of radioactive material is limited to the:

(A) Administration of radiopharmaceuticals for diagnostic or therapeutic purposes;

(B) Performance of diagnostic studies on patients to whom a radiopharmaceutical has been administered;

(C) Performance of in vitro diagnostic studies; or

(D) Calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation and diagnostic instrumentation;

(ii) The physician brings the radioactive material with him or her and removes the radioactive material when he or she departs. (The institution cannot receive, possess or store radioactive material other than the amount of material remaining in the patient); and

(iii) The medical institution does not hold a radioactive material license issued pursuant to the provisions of subsection (1) of this section.

(3) *Specific licenses for certain groups of medical uses of radioactive material.*

(a) Subject to the provisions of (b), (c) and (d) of this subsection an application for a specific license pursuant to subsection (1), (2) or (4) of this section, or for any medical use or uses of radioactive material specified in one or more of Groups I to VI, inclusive, of WAC 246-235-120, Schedule A, will be approved for all of the uses within the group or groups which include the use or uses specified in the application if:

(i) The applicant satisfies the requirements of subsection (1), (2) or (4) of this section;

(ii) The applicant, or the physician designated in the application as the individual user, has adequate clinical experience in the types of uses included in the group or groups;

(iii) The applicant, or the physicians and all other personnel who will be involved in the preparation and use of the radioactive material, have adequate training and experience in the handling of radioactive material appropriate to their participation in the uses included in the group or groups;

(iv) The applicant's radiation detection and measuring instrumentation is adequate for conducting the procedures involved in the uses included in the group or groups, specifically:

(A) For Groups I through V, applicant must possess and use a calibrated and operable low-range survey instrument with a thin window (less than 7 mg/cm²) capable of detecting radiation levels of 0.05 milliroentgen per hour up to at least 20 milliroentgens per hour;

(B) For Groups III, V, and VI, applicant must possess a calibrated and operable high-range survey instrument capable of detecting radiation levels up to at least one Roentgen per hour;

(v) The applicant's radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the uses included in the group or groups.

(b) Any licensee or registrant who is authorized to use radioactive material pursuant to one or more groups in (a) of this subsection and WAC 246-235-120, Schedule A, is subject to the following conditions:

(i) For Groups I, II, IV, and V, no licensee or registrant shall receive, possess or use radioactive material except as a radiopharmaceutical manufactured in the form to be administered to the patient, labeled, packaged and distributed in accordance with a specific license issued by the department pursuant to WAC 246-235-100, a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.72 of 10 CFR Part 32, or a specific license issued by an agreement state or a licensing state pursuant to equivalent regulations.

(ii) For Group III, no licensee or registrant shall receive, possess or use generators or reagent kits containing radioactive material unless manufactured, labeled, packaged and distributed in accordance with a specific license issued by the department pursuant to WAC 246-235-100, a specific license issued by the United States Nuclear Regulatory Commission ~~(pursuant to)~~ under Section 32.73 of 10 CFR Part 32, or a

specific license issued by an agreement state or a licensing state ~~((pursuant to))~~ under equivalent regulations.

(iii) For Group VI, no licensee or registrant shall receive, possess or use radioactive material except as contained in a source or device that has been manufactured, labeled, packaged and distributed in accordance with a specific license issued by the department ~~((pursuant to))~~ under WAC 246-235-102, a specific license issued by the United States Nuclear Regulatory Commission ~~((pursuant to))~~ under Section 32.74 of 10 CFR Part 32, or a specific license issued to the manufacturer by an agreement state or a licensing state ~~((pursuant to))~~ under equivalent regulations.

(iv) For Group III, any licensee or registrant who uses generators or reagent kits shall elute the generator or process radioactive material with the reagent kit in accordance with instructions ~~((which are))~~ approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and are furnished by the manufacturer on the label attached to or in the leaflet or brochure which accompanies the generator or reagent kit.

(c) Any licensee who is licensed ~~((pursuant to))~~ under (a) of this subsection for one or more of the medical use groups in WAC 246-235-120, Schedule A, also is authorized, subject to the provisions of (c) and (d) of this subsection to receive, possess and use for calibration and reference standards:

(i) Any radioactive material authorized for use under Group I, Group II, or Group III of WAC 246-235-120, Schedule A, with a half-life not longer than one hundred days, in amounts not to exceed 15 millicuries total;

(ii) Any radioactive material authorized for use under Group I, Group II, or Group III of WAC 246-235-120, Schedule A, with half-life greater than one hundred days in amounts not to exceed 200 microcuries total;

(iii) Technetium-99m in amounts not to exceed 50 millicuries;

(iv) Any radioactive material excluding Radium-226, in amounts not to exceed fifteen millicuries per sealed source, contained in calibration or reference sources that have been manufactured, labeled, packaged, and distributed in accordance with a specific license issued by the department pursuant to WAC 246-235-102, a specific license issued by the United States Nuclear Regulatory Commission pursuant to Section 32.74 of 10 CFR Part 32, or a specific license issued to the manufacturer by an agreement state or a licensing state pursuant to equivalent regulations.

(d) Leak tests.

(i) Any licensee or registrant who possesses sealed sources as calibration or reference sources ~~((pursuant to))~~ under (c) of this subsection shall cause each sealed source containing radioactive material, other than Hydrogen-3, with a half-life greater than thirty days in any form other than gas to be tested for leakage and/or contamination at intervals not to exceed six months. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, the sealed sources shall not be used until tested ~~((: Provided, however, That no leak))~~. However, leak tests are not required when:

(A) The source contains 100 microcuries or less of beta and/or gamma emitting material or 10 microcuries or less of alpha emitting material;

(B) The sealed source is stored and is not being used: Provided, ~~((That))~~ a physical inventory of the source and wipe surveys of the storage area or storage container are conducted.

(ii) The leak test shall be capable of detecting the presence of 0.005 microcurie of radioactive material on the test sample. The test sample shall be taken from the sealed source or from the surfaces of the device in which the sealed source is mounted or stored on which contamination might be expected to accumulate. Records of leak test results shall be kept in units of microcuries and maintained for inspection by the department.

(iii) If the leak test reveals the presence of 0.005 microcurie or more of removable contamination, the licensee or registrant shall immediately withdraw the sealed source from use and shall cause it to be decontaminated and repaired or to be disposed of in accordance with chapters 246-235 and 246-221 WAC. A report shall be filed within five days of the test with the department describing the equipment involved, the test results, and the corrective action taken.

(e) Any licensee or registrant who possesses and uses calibration and reference sources ~~((pursuant to))~~ under (c)(iv) of this subsection shall:

(i) Follow the radiation safety and handling instructions approved by the department, the United States Nuclear Regulatory Commission, an agreement state or a licensing state and furnished by the manufacturer on the label attached to the source, or permanent container thereof, or in the leaflet or brochure that accompanies the source, and maintain ~~((such))~~ the instructions in a legible and conveniently available form; and

(ii) Conduct a quarterly physical inventory to account for all sources received and possessed. Records of the inventories shall be maintained for inspection by the department and shall include at a minimum the quantities and kinds of radioactive material, location of sources, name of person performing the inventory, and the date of the inventory.

(4) *Human use of sealed sources.* In addition to the requirements set forth in WAC 246-235-020, a specific license for human use of sealed sources will be issued only if the individual applicant or, if the application is made by an institution, the individual user:

(a) Has specialized training in the diagnostic or therapeutic use of the sealed source considered, or has experience equivalent to such training; and

(b) Is a physician.

~~((5) Use of sealed sources in industrial radiography. In addition to the requirements set forth in WAC 246-235-020, a specific license for use of sealed sources in industrial radiography will be issued if:~~

~~((a) The applicant will have an adequate program for training radiographers and radiographer's assistants and submits to the department a schedule or description of such program which specifies the:~~

~~((i) Initial training;~~

~~((ii) Periodic training;~~

~~((iii) On-the-job training;~~

~~((iv) Means to be used by the licensee to determine the radiographer's knowledge and understanding of and ability to~~

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comply with department regulations and licensing requirements, and the operating and emergency procedures of the applicant; and

(v) Means to be used by the licensee to determine the radiographer's assistant's knowledge and understanding of and ability to comply with the operating and emergency procedures of the applicant;

(b) The applicant submits to the department and complies with satisfactory written operating and emergency procedures (described in WAC 246-243-140);

(c) The applicant will have a quarterly internal inspection system, to assure that license provisions, regulations, and the applicant's operating and emergency procedures are followed by radiographers and radiographer's assistants. Records of this management control program shall be maintained for two years;

(d) The applicant submits to the department a description of the applicant's overall organizational structure pertaining to the industrial radiography program, including specified delegations of authority and responsibility for operation of the program;

(e) The applicant who desires to conduct leak tests has established adequate procedures to be followed in leak testing sealed sources for possible leakage and contamination and submits to the department a description of such procedures including:

(i) Instrumentation to be used;

(ii) Method of performing tests, e.g., points on equipment to be smeared and method of taking smear; and

(iii) Pertinent experience of the person who will perform the tests;

(f) The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices and storage containers to assure proper functioning of components important to safety.

(6) *Environmentally significant licensing actions.* In addition to the requirements set forth in WAC 246-235-020, a specific license for any activity within the licensing authority of the department which the department determines will significantly affect the radiological quality of the human environment, including those specified in WAC 197-11-845(1) and 246-03-030 (1)(a)(ii) (i.e., licenses to operate low level waste burial facilities or licenses to operate or expand beyond the design capacity, mineral processing facilities or their tailings areas, whose products, or byproducts, have concentrations of naturally occurring radioactive material in excess of exempt concentrations as specified in WAC 246-232-130, Schedule C), will be issued if the following conditions are met:

(a) Environmental impact statement.

(i) The application for a license or license amendment (other than administrative amendments) is accompanied or preceded by a final environmental impact statement or final declaration of nonsignificance completed in accordance with the State Environmental Policy Act (SEPA) procedures and guidelines specified in chapters 197-11 and 246-03 WAC. For any uranium or thorium mill in operation on or before the effective date of this regulation for which an environmental impact statement has not been prepared previously, an appli-

cation for license renewal must be accompanied or preceded by a final environmental impact statement or final declaration of nonsignificance completed in accordance with SEPA guidelines.

Note: No construction shall be commenced until the license has been issued or unless an emergency exemption from SEPA requirements is granted in accordance with WAC 197-11-880. For the purposes of this subsection, the term "commencement of construction" means any clearing of land, excavation or other substantial action related to a proposed activity for specific licensing that would adversely affect the natural environment of a site; this term does not include changes desirable for the temporary use of the land for public recreational use, limited borings to determine site characteristics as necessary for environmental assessment, or other preconstruction monitoring to establish background information related to suitability of a site or to the protection of environmental values. In the case where an exemption is granted, the applicant shall assume all financial risk for construction activity; waive any claim of entitlement to the issuance of a license based solely upon the grant of the exemption or the commencement of construction pursuant thereto; and furnish, if the circumstances warrant and the department so requires, a financial surety arrangement to insure the protection of the public health, safety and the environment in the event of abandonment, default, or inability of the license applicant to meet the requirements of the act or these regulations.

(ii) In addition to the information required in chapter 197-11 WAC, the following additional areas shall be addressed in the final environmental impact statement:

(A) Alternative sites to those chosen by the applicant shall include all alternative sites, whether or not those sites are under the control or ownership of the applicant.

(B) Long term impacts shall include, but not be limited to, decommissioning, decontamination, reclamation impacts and material management associated with the proposed activities.

(C) Environmental reviews, dose assessments, ecology, construction effects on biota, impact on the environment from the use of chemicals, and socioeconomic effects shall be addressed.

(D) Alternative disposal sites and techniques for disposal shall be evaluated to determine if a site or technique is clearly superior.

(b) For uranium or thorium milling operations, a bond made payable to the department of health or other acceptable government agency, and in an amount specified by the department, shall be posted to ensure the protection of the public health and safety in the event of abandonment, default or other inability of the licensee to meet the requirements for reclamation and disposal of tailings and for decommissioning the site. The bond, or a copy thereof when the bond is made payable to another government agency, shall be received by the department prior to issuance of the license, or prior to license renewal for mills in operation on or before the effective date of this regulation. Other acceptable surety arrangements in addition to surety bonding include cash deposits, certificates of deposit, deposits of government securities, letters or lines of credit or combinations of the foregoing. The amount and mechanism of the surety arrangement may be reviewed by the department preceding each license renewal and adjustments may be required of the licensee prior to such renewal.

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(e) The owner of the proposed uranium or thorium mill and tailings site(s) agrees to transfer or revert to the appropriate state or federal agency upon termination of the license, all lands, buildings and grounds, and any interest therein, necessary to fulfill the purposes of this subsection, except where the lands are held in trust for, or are owned by any Indian tribe. For any uranium or thorium mill in operation on or before the effective date of this regulation, such an agreement will be required prior to license renewal.

(d) For all uranium and thorium milling operations, the owner or operator shall arrange to pay to the department or its designee a fee in accordance with WAC 246-254-150 for a special security fund for the further maintenance, surveillance or care which may be required after a licensee has ceased to operate.

A minimum fund of two hundred fifty thousand dollars shall be provided by the licensee payable to the state. If a shortfall exists between the amount of money in the special security fund and the two hundred fifty thousand dollars minimum amount, a surety bond, or other acceptable surety instrument as defined above shall be arranged.

(e) The application for a license includes a description of an appropriate program for effluent monitoring, environmental monitoring and data reporting. Such description shall encompass locations, frequency, and types of sampling, analytical plans and procedures, minimum detection levels, sampling equipment and quality assurance programs.

(f) All licensees or registrants required to meet the additional requirements set forth in this subsection shall establish environmental monitoring programs adequate to determine the impact of their activity on the natural environment around the site of their environmentally significant activity. The established environmental and effluent monitoring program shall address all environmentally significant radionuclide releases and external radiation sources caused or threatened to be caused by the licensee's activities.

(i) Effluent and environmental monitoring results shall include the following minimum information as pertinent:

(A) Information as to flow rates, total volume of effluent, peak concentration, concentration of each radionuclide in the effluent averaged over a period of one year at the point where the effluent leaves a stack, tube, pipe, or similar conduit;

(B) A description of the properties of the effluents, including:

(I) Chemical composition;

(II) Physical characteristics, including suspended solids content in liquid effluents, and nature of gas aerosol for air effluents;

(III) The hydrogen ion concentrations (pH) of liquid effluents; and

(IV) The size range of particulates in effluent released into air;

(C) A description of the anticipated human occupancy in the unrestricted area where the highest concentration of radioactive material from the effluent is expected, and, in the case of a river stream a description of water uses downstream from the point of release of the effluent.

(D) Information as to the highest concentration of each radionuclide in an unrestricted area, including anticipated concentrations averaged over a period of one year:

(I) In air at any point of human occupancy; or
(II) In water at points of use downstream from the point of release of the effluent;

(E) The background concentration of radionuclides in the receiving river or stream prior to the release of liquid effluent;

(F) A description of the waste treatment facilities and procedures used to reduce the concentration of radionuclides in effluents prior to their release;

(G) A written description of sampling techniques and sample analysis methods;

(H) A written description of how all calculated results were obtained from sample analysis data. This explanation shall include example calculations and estimates of the precision and sensitivity of monitoring results;

(I) A written description of the licensee's quality control program including specification of control samples and standard samples used.

(ii) The licensee shall submit in writing to the department within sixty days after January 1 and July 1 of each year, reports specifying the quantities of each of the principle radionuclides released to unrestricted areas in liquid and in gaseous effluent during the previous six months of operations. This data shall be reported in a manner that will permit the department to confirm the potential annual radiation doses to the public. All data from the radiological and nonradiological environmental monitoring program will also be submitted for the same time period and frequency as specified above. The data shall be reported in a manner which will allow the department to confirm the potential annual radiation doses to the public.

(g) For land disposal of radioactive material, the provisions of chapter 246-250 WAC must also be met.

(h) For operation of mineral processing facilities, the provisions of chapter 246-252 WAC must also be met.)

NEW SECTION

WAC 246-235-084 Special requirements for issuance of specific licenses for industrial radiography. In addition to the requirements set forth in WAC 246-235-020, a specific license for use of sealed sources in industrial radiography will be issued if:

(1) The applicant submits an adequate program for training radiographers and radiographer's assistants that meets the requirements of WAC 246-243-050 and 246-243-130.

(a) After June 30, 2000, a license applicant need not describe its initial training and examination program for radiographers in the subjects outlined in WAC 246-243-230.

(b) From June 30, 2000, to January 1, 2001, a license applicant may affirm that all individuals acting as industrial radiographers will be certified in radiation safety by a certifying entity before beginning duty as radiographers. This affirmation substitutes for a description of its initial training and examination program for radiographers in the subjects outlined in WAC 246-243-230.

(2) The applicant submits procedures for verifying and documenting the certification status of radiographers and for ensuring that the certification of individuals acting as radiographers remains valid.

PROPOSED

(3) The applicant submits written operating and emergency procedures as described in WAC 246-243-140.

(4) The applicant submits a description of a program for inspections of the job performance of each radiographer and radiographers' assistant at intervals not to exceed six months as described in WAC 246-243-050.

(5) The applicant submits a description of the applicant's overall organizational structure as it applies to the radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.

(6) The applicant identifies and lists the qualifications of the individual(s) designated as the RSO (WAC 246-243-047) and potential designees responsible for ensuring that the licensee's radiation safety program is implemented in accordance with approved procedures.

(7) If an applicant intends to perform leak testing of sealed sources or of exposure devices containing depleted uranium (DU) shielding, the applicant shall describe the procedures for performing and the qualifications of the person(s) authorized to do the leak testing. If the applicant intends to analyze its own wipe samples, the application must include a description of the procedures to be followed. The description must include the:

- (a) Instruments to be used;
- (b) Methods of performing the analysis; and
- (c) Pertinent experience of the person who will analyze the wipe samples.

(8) If the applicant intends to perform "in-house" calibrations of survey instruments, the applicant must describe methods to be used and the relevant experience of the person(s) who will perform the calibrations. All calibrations must be performed according to these procedures and the intervals prescribed in WAC 246-243-080.

(9) The applicant identifies and describes the location(s) of all field stations and permanent radiographic installations.

(10) The applicant identifies the location where all records required by this section and other sections of these regulations will be maintained.

NEW SECTION

WAC 246-235-086 Special requirements for environmentally significant licensing actions. In addition to the requirements set forth in WAC 246-235-020, a specific license for any activity within the licensing authority of the department which the department determines will significantly affect the radiological quality of the human environment, including those specified in WAC 197-11-845(1) and 246-03-030 (1)(a)(ii) (i.e., licenses to operate low level waste burial facilities or licenses to operate or expand beyond the design capacity, mineral processing facilities or their tailings areas, whose products, or byproducts, have concentrations of naturally occurring radioactive material in excess of exempt concentrations as specified in WAC 246-232-130, Schedule C), will be issued if the following conditions are met:

(1) Environmental impact statement.

(a) The application for a license or license amendment (other than administrative amendments) is accompanied or preceded by a final environmental impact statement or final declaration of nonsignificance completed in accordance with

the State Environmental Policy Act (SEPA) procedures and guidelines specified in chapters 197-11 and 246-03 WAC. For any uranium or thorium mill in operation on or before the effective date of this regulation for which an environmental impact statement has not been prepared previously, an application for license renewal must be accompanied or preceded by a final environmental impact statement or final declaration of nonsignificance completed in accordance with SEPA guidelines.

Note: No construction shall be commenced until the license has been issued or unless an emergency exemption from SEPA requirements is granted in accordance with WAC 197-11-880. For the purposes of this subsection, the term "commencement of construction" means any clearing of land, excavation or other substantial action related to a proposed activity for specific licensing that would adversely affect the natural environment of a site; this term does not include changes desirable for the temporary use of the land for public recreational use, limited borings to determine site characteristics as necessary for environmental assessment, or other preconstruction monitoring to establish background information related to suitability of a site or to the protection of environmental values. In the case where an exemption is granted, the applicant shall assume all financial risk for construction activity; waive any claim of entitlement to the issuance of a license based solely upon the grant of the exemption or the commencement of construction pursuant thereto; and furnish, if the circumstances warrant and the department so requires, a financial surety arrangement to insure the protection of the public health, safety and the environment in the event of abandonment, default, or inability of the license applicant to meet the requirements of the act or these regulations.

(b) In addition to the information required in chapter 197-11 WAC, the following additional areas shall be addressed in the final environmental impact statement:

(i) Alternative sites to those chosen by the applicant shall include all alternative sites, whether or not those sites are under the control or ownership of the applicant.

(ii) Long term impacts shall include, but not be limited to, decommissioning, decontamination, reclamation impacts and material management associated with the proposed activities.

(iii) Environmental reviews, dose assessments, ecology, construction effects on biota, impact on the environment from the use of chemicals, and socioeconomic effects shall be addressed.

(iv) Alternative disposal sites and techniques for disposal shall be evaluated to determine if a site or technique is clearly superior.

(2) For uranium or thorium milling operations, a bond made payable to the department of health or other acceptable government agency, and in an amount specified by the department, shall be posted to ensure the protection of the public health and safety in the event of abandonment, default or other inability of the licensee to meet the requirements for reclamation and disposal of tailings and for decommissioning the site. The bond, or a copy thereof when the bond is made payable to another government agency, shall be received by the department prior to issuance of the license, or prior to license renewal for mills in operation on or before the effective date of this regulation. Other acceptable surety arrangements in addition to surety bonding include cash deposits, certificates of deposit, deposits of government securities, letters or lines of credit or combinations of the foregoing. The

amount and mechanism of the surety arrangement may be reviewed by the department preceding each license renewal and adjustments may be required of the licensee prior to such renewal.

(3) The owner of the proposed uranium or thorium mill and tailings site(s) agrees to transfer or revert to the appropriate state or federal agency upon termination of the license, all lands, buildings and grounds, and any interest therein, necessary to fulfill the purposes of this subsection, except where the lands are held in trust for, or are owned by, any Indian tribe. For any uranium or thorium mill in operation on or before the effective date of this regulation, such an agreement will be required prior to license renewal.

(4) For all uranium and thorium milling operations, the owner or operator shall arrange to pay to the department or its designee a fee in accordance with WAC 246-254-150 for a special security fund for the further maintenance, surveillance or care which may be required after a licensee has ceased to operate.

A minimum fund of two hundred fifty thousand dollars shall be provided by the licensee payable to the state. If a shortfall exists between the amount of money in the special security fund and the two hundred fifty thousand dollars minimum amount, a surety bond, or other acceptable surety instrument as defined above shall be arranged.

(5) The application for a license includes a description of an appropriate program for effluent monitoring, environmental monitoring and data reporting. The description shall encompass locations, frequency, and types of sampling, analytical plans and procedures, minimum detection levels, sampling equipment and quality assurance programs.

(6) All licensees or registrants required to meet the additional requirements set forth in this subsection shall establish environmental monitoring programs adequate to determine the impact of their activity on the natural environment around the site of their environmentally significant activity. The established environmental and effluent monitoring program shall address all environmentally significant radionuclide releases and external radiation sources caused or threatened to be caused by the licensee's activities.

(a) Effluent and environmental monitoring results shall include the following minimum information as pertinent:

(i) Information as to flow rates, total volume of effluent, peak concentration, concentration of each radionuclide in the effluent averaged over a period of one year at the point where the effluent leaves a stack, tube, pipe, or similar conduit;

(ii) A description of the properties of the effluents, including:

(A) Chemical composition;

(B) Physical characteristics, including suspended solids content in liquid effluents, and nature of gas aerosol for air effluents;

(C) The hydrogen ion concentrations (pH) of liquid effluents; and

(D) The size range of particulates in effluent released into air;

(iii) A description of the anticipated human occupancy in the unrestricted area where the highest concentration of radioactive material from the effluent is expected, and, in the

case of a river or stream, a description of water uses downstream from the point of release of the effluent.

(iv) Information as to the highest concentration of each radionuclide in an unrestricted area, including anticipated concentrations averaged over a period of one year:

(A) In air at any point of human occupancy; or

(B) In water at points of use downstream from the point of release of the effluent;

(v) The background concentration of radionuclides in the receiving river or stream prior to the release of liquid effluent;

(vi) A description of the waste treatment facilities and procedures used to reduce the concentration of radionuclides in effluents prior to their release;

(vii) A written description of sampling techniques and sample analysis methods;

(viii) A written description of how all calculated results were obtained from sample analysis data. This explanation shall include example calculations and estimates of the precision and sensitivity of monitoring results;

(ix) A written description of the licensee's quality control program including specification of control samples and standard samples used.

(b) The licensee shall submit in writing to the department within sixty days after January 1 and July 1 of each year, reports specifying the quantities of each of the principle radionuclides released to unrestricted areas in liquid and in gaseous effluent during the previous six months of operations. This data shall be reported in a manner that will permit the department to confirm the potential annual radiation doses to the public. All data from the radiological and nonradiological environmental monitoring program will also be submitted for the same time period and frequency as specified above. The data shall be reported in a manner which will allow the department to confirm the potential annual radiation doses to the public.

(7) For land disposal of radioactive material, the provisions of chapter 246-250 WAC must also be met.

(8) For operation of mineral processing facilities, the provisions of chapter 246-252 WAC must also be met.

AMENDATORY SECTION (Amending WSR 98-13-037, filed 6/8/98, effective 7/9/98)

WAC 246-235-090 Special requirements for specific licenses of broad scope. This section prescribes requirements for the issuance of specific licenses of broad scope for radioactive material ("broad licenses") and certain regulations governing holders of such licenses.*

*Note: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity or other product containing source material or byproduct material whose subsequent possession, use, transfer and disposal by all other persons who are exempted from regulatory requirements may be obtained only from the United States Nuclear Regulatory Commission, Washington, D.C. 20555.

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(1) *The different types of broad licenses are set forth below:*

(a) A "Type A specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of the radioactive material specified in the license, but not exceeding quantities specified in the license, for any authorized purpose. The quantities specified are usually in the microcurie range.

(b) A "Type B specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in WAC 246-235-140 Schedule B, for any authorized purpose. The possession limit for a Type B broad license, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in WAC 246-235-140 Schedule B, Column I. If two or more radionuclides are possessed thereunder, the possession limit for each is determined as follows: For each radionuclide, determine the ratio of the quantity possessed to the applicable quantity specified in WAC 246-235-140 Schedule B, Column I, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(c) A "Type C specific license of broad scope" is a specific license authorizing receipt, acquisition, ownership, possession, use and transfer of any chemical or physical form of radioactive material specified in WAC 246-235-140 Schedule B, for any authorized purpose. The possession limit for a Type C broad license, if only one radionuclide is possessed thereunder, is the quantity specified for that radionuclide in WAC 246-235-140 Schedule B, Column II. If two or more radionuclides are possessed thereunder, the possession limit is determined for each as follows: For each radionuclide determine the ratio of the quantity possessed to the applicable quantity specified in WAC 246-235-140 Schedule B, Column II, for that radionuclide. The sum of the ratios for all radionuclides possessed under the license shall not exceed unity.

(2) *An application for a Type A specific license of broad scope will be approved if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020.

(b) The applicant has engaged in a reasonable number of activities involving the use of radioactive material; and

(c) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(i) The establishment of a radiation safety committee composed of such persons as a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;

(ii) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(iii) The establishment of appropriate administrative procedures to assure:

(A) Control of procurement and use of radioactive material;

(B) Completion of safety evaluation of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(C) Review, approval, and recording by the radiation safety committee of safety evaluation of proposed uses prepared in accordance with item (2)(c)(iii)(B) of this section prior to use of the radioactive material.

(3) *An application for a Type B specific license of broad scope will be approved if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020; and

(b) The applicant has established administrative controls and provisions relating to organization and management, procedures, recordkeeping, material control and accounting, and management review that are necessary to assure safe operations, including:

(i) The appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and

(ii) The establishment of appropriate administrative procedures to assure:

(A) Control of procurement and use of radioactive material;

(B) Completion of safety evaluations of proposed uses of radioactive material which take into consideration such matters as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and

(C) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared in accordance with item (3)(b)(ii)(B) of this section prior to use of the radioactive material.

(4) *An application for a Type C specific license of broad scope will be approved if:*

(a) The applicant satisfies the general requirements specified in WAC 246-235-020.

(b) The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of individuals, who have received:

(i) A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and

(ii) At least forty hours of training and experience in the safe handling of radioactive material, and in the characteristics of ionizing radiation, units of radiation dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and

(c) The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.

(5) *Specific licenses of broad scope are subject to the following conditions:*

(a) Unless specifically authorized by the department, persons licensed (~~(pursuant to)~~) under this section shall not:

(i) Conduct tracer studies in the environment involving direct release of radioactive material;

(ii) Receive, acquire, own, possess, use or transfer devices containing 100,000 curies or more of radioactive material in sealed sources used for irradiation of materials;

(iii) Conduct activities for which a specific license issued by the department under WAC 246-235-080 through 246-235-086 or WAC 246-235-091 through 246-235-105 is required; or

(iv) Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug or other product designed for ingestion or inhalation by, or application to, a human being.

(b) Each Type A specific license of broad scope issued under this part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.

(c) Each Type B specific license of broad scope issued under this part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.

(d) Each Type C specific license of broad scope issued under this part shall be subject to the condition that radioactive material possessed under the license may only be used by, or under the direct supervision of, individuals who satisfy the requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-020 Definitions. As used in this part:

(1) (~~"Enclosed radiography" means industrial radiography employing radiographic exposure devices conducted in an enclosed cabinet or room and includes cabinet radiography and shielded room radiography.~~

~~(a) "Cabinet radiography" means industrial radiography employing radiographic exposure devices conducted in an enclosure or cabinet so shielded that every location at the exterior meets the conditions specified in WAC 246-221-060 of these regulations.~~

~~(b) "Shielded room radiography" means industrial radiography conducted in a room so shielded that every location on the exterior meets the conditions specified in WAC 246-221-060 of these regulations.~~

~~(2)) "Annual refresher safety training" means a review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review may include, as appropriate, the results of internal inspections, new procedures or equipment, new or revised regulations, accidents or errors that have been observed, and should also provide opportunities for employees to ask safety questions.~~

~~(2) "Associated equipment" means equipment that is used in conjunction with a radiographic exposure device to~~

make radiographic exposures that drives, guides, or comes in contact with the source, (e.g., guide tube, control tube, control (drive) cable, removable source stop, "J" tube and collimator) when it is used as an exposure head.

(3) "Certifying entity" means an independent certifying organization meeting the requirements in WAC 246-243-250 Appendix C or an agreement state meeting the requirements in WAC 246-243-250 Appendix C, subsections (2) and (3).

(4) "Collimator" means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size of the radiation beam when the sealed source is cranked into position to make a radiographic exposure.

(5) "Control (drive) cable" means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

(6) "Control drive mechanism" means a device that enables the source assembly to be moved to and from the exposure device.

(7) "Control tube" means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

(8) "Exposure head" means a device that locates the gamma radiography sealed source in the selected working position. (An exposure head is also known as a source stop.)

(9) "Field station" means a facility where licensed material may be stored or used and from which equipment is dispatched.

(10) "Guide tube (projection sheath)" means a flexible or rigid tube (i.e., "J" tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

(11) "Hands-on experience" means experience in all of those areas considered to be directly involved in the radiography process.

(12) "Independent certifying organization" means an independent organization that meets all of the criteria of WAC 246-243-250 Appendix C.

(13) "Industrial radiography" (radiography) means the examination of the macroscopic structure of materials by nondestructive methods utilizing sources of radiation to make radiographic images. Industrial radiography as used in this chapter does not include well logging operations.

~~((3))~~ (14) "Lay-barge radiography" means industrial radiography performed on any water vessel used for laying pipe.

(15) "Offshore platform radiography" means industrial radiography conducted from a platform over a body of water.

(16) "Permanent radiographic installation" means ((a)) an enclosed shielded ((installation or structure designed or intended for radiography employing a radiographic exposure device and)) room, cell or vault, not located at a temporary job site, in which radiography is ((regularly)) performed, regardless of ownership.

~~((4))~~ "Personal supervision" means supervision by a radiographer such that the radiographer is physically present at the radiography site and in such proximity that communication can be maintained and immediate assistance given as

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required. When a radiographer's assistant is using or handling sources of radiation, the radiographer must maintain direct surveillance.

~~((5))~~ (17) "Practical examination" means a demonstration through practical application of the safety rules and principles in industrial radiography including use of all appropriate equipment and procedures.

(18) "Radiation safety officer for industrial radiography" means an individual with the responsibility for the overall radiation safety program on behalf of the licensee and who meets the requirements of WAC 246-243-047.

(19) "Radiographer" means any individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee for assuring compliance with the requirements of these regulations and all license conditions.

~~((6))~~ (20) "Radiographer certification" means written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria.

(21) "Radiographer's assistant" means any individual who, under the personal supervision of a radiographer, uses sources of radiation, related handling tools, or radiation survey instruments in industrial radiography.

~~((7))~~ (22) "Radiographic exposure device" means any instrument containing a sealed source fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed, from a shielded to unshielded position for purposes of making a radiographic exposure.

~~((8))~~ (23) "Radiographic operations" means all activities associated with the presence of radioactive sources in a radiographic exposure device during use of the device or transport (except when being transported by a common or contract carrier), to include surveys to confirm the adequacy of boundaries, setting up equipment and any activity inside restricted area boundaries.

(24) "S-tube" means a tube through which the radioactive source travels when inside a radiographic exposure device.

(25) "Shielded position" means the location within the radiographic exposure device or ~~((storage container which, by manufacturer's design, is the proper location for storage of the sealed source))~~ source changer where the sealed source is secured and restricted from movement.

~~((9))~~ (26) "Source assembly" means an assembly that consists of the sealed source and a connector that attaches the source to the control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

(27) "Source changer" means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

~~((10))~~ (28) "Storage area" means any location, facility, or vehicle which is used to store or to secure a radiographic exposure device, a storage container, or a sealed source when it is not in use and which is locked or has a physical barrier to

prevent accidental exposure, tampering with, or unauthorized removal of the device, container, or source.

(29) "Storage container" means a ~~((device))~~ container in which sealed sources are ~~((transported or))~~ secured and stored.

~~((11))~~ (30) "Temporary job site" ~~((refers to any location which is not specifically authorized and described in a license))~~ means a location where radiographic operations are conducted and where licensed material may be stored other than those location(s) of use authorized on the license.

(31) "Underwater radiography" means industrial radiography performed when the radiographic exposure device and/or related equipment are beneath the surface of the water.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-243-030 ~~((Offshore))~~ Conducting industrial radiography operations. (1) Whenever radiography is performed at a location other than a permanent radiographic installation, the radiographer must be accompanied by at least one other qualified radiographer or an individual who has at a minimum met the requirements of WAC 246-243-130(2) (radiographer's assistant). The additional qualified individual shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Radiography may not be performed if only one qualified individual is present.

(2) All radiographic operations conducted at locations of use authorized on the license must be conducted in a permanent radiographic installation, unless specifically authorized by the department.

(3) Offshore platform, lay-barge, and/or underwater radiography shall be performed only by licensees whose license specifically authorizes such activity. Such operations fall under the jurisdiction of the United States Nuclear Regulatory Commission when conducted outside of the territorial waters of the state of Washington.

(4) Licensees will have until January 1, 2001, to meet the requirement for having two qualified individuals present at locations other than a permanent radiographic installation as specified in subsection (1) of this section.

NEW SECTION

WAC 246-243-042 Labeling, storage, and transportation. (1) The licensee may not use a source changer or a container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label bearing the standard trefoil radiation caution symbol in conventional colors, i.e., magenta, purple or black on a yellow background, having a minimum diameter of 25 mm, and the wording:

CAUTION (or "DANGER")
 RADIOACTIVE MATERIAL
 NOTIFY CIVIL AUTHORITIES
 (or "NAME OF COMPANY")

(2) The licensee may not transport licensed material unless the material is packaged, and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with regulations set out in 10 CFR Part 71.

(3) Locked radiographic exposure devices and storage containers must be physically secured to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner which will minimize danger from explosion or fire.

(4) The licensee shall lock and physically secure the transport package containing licensed material in the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

NEW SECTION

WAC 246-243-044 Records of receipt and transfer of sealed sources. (1) Each licensee shall maintain records showing the receipts and transfers of sealed sources and of devices using depleted uranium (DU) for shielding and retain each record for three years after it is made.

(2) These records must include the date, shipper or destination, the name of the individual making the record, radionuclide, number of becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each sealed source and/or device, as appropriate.

NEW SECTION

WAC 246-243-047 Radiation safety officer for industrial radiography. The radiation safety officer (RSO) shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's program.

(1) The minimum qualifications, training, and experience for RSOs for industrial radiography are as follows:

(a) Completion of the training and testing requirements of WAC 246-243-130(1);

(b) Two thousand hours of hands-on experience as a qualified radiographer in industrial radiographic operations utilizing sealed radioactive material; and

(c) Formal training in the establishment and maintenance of a radiation protection program.

(2) The department will consider alternatives when the RSO has appropriate training and/or experience in the field of ionizing radiation, and in addition, has adequate formal training with respect to the establishment and maintenance of a radiation safety protection program.

(3) The specific duties and authorities of the RSO include, but are not limited to:

(a) Establishing and overseeing all operating, emergency, and ALARA procedures as required by chapter 246-221 WAC, and reviewing them regularly to ensure that the procedures in use conform to current chapter 246-221 WAC

requirements, conform to other department regulations and to the license conditions;

(b) Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;

(c) Ensuring that required radiation surveys and leak tests are performed and documented in accordance with the regulations, including any corrective measures when levels of radiation exceed established limits;

(d) Ensuring that personnel monitoring devices are calibrated and used properly by occupationally exposed personnel, that records are kept of the monitoring results, and that timely notifications are made as required by WAC 246-221-260; and

(e) Ensuring that operations are conducted safely and to assume control for instituting corrective actions including stopping of operations when necessary.

(4) The licensee will have until January 1, 2001, to meet the requirements of subsection (1) or (2) of this section.

AMENDATORY SECTION (Amending Order 245, filed 2/21/92, effective 3/23/92)

WAC 246-243-050 Internal (~~audit~~) inspection program and training. (1) Each licensee shall conduct the internal (~~audit~~) inspection of job performance required by WAC (~~(246-235-080(5)(e))~~) 246-235-084 at intervals not to exceed (~~three~~) six months. (~~The audit should be done by management or the radiation safety officer and shall cover a review or spot checks of the records required by WAC 246-220-020, 246-221-110, 246-221-160, 246-221-230, 246-243-080, 246-243-090, 246-243-100, 246-243-110, 246-243-120, 246-243-130, 246-243-150, 246-243-190, 246-243-200, and 246-243-220, and conditions of the license.~~

(2) ~~Each individual performing radiography shall be audited at intervals not to exceed three months during the performance of radiography, to assure that the license provisions, regulations, and the licensees operating and emergency procedures are followed by radiographers and radiographer's assistants. If a radiographer or a radiographer's assistant has not participated in a radiographic operation for more than three months since the last audit, that individual's performance must be observed and recorded the next time the individual participates in a radiographic operation. This audit shall be performed by the radiation safety officer, management, or the most experienced radiographers available. Results of this audit shall be recorded.~~

(3) ~~Records of the internal audits required by subsections (1) and (2) of this section shall be maintained for three years.~~

(4) ~~Training required by WAC 246-235-080(5)(a) shall be conducted in accordance with the conditions of the license and subject to the following criteria:~~

(a) ~~Initial training must be completed before a person can act as a radiographer or radiographer's assistant;~~

(b) ~~Periodic retraining must be conducted at least annually;~~

(c) ~~Records showing compliance with these training requirements must be maintained for at least one year following termination of employment.)~~ Except as provided in subsection (1)(d) of this section, the radiation safety officer

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(RSO) or designee shall conduct an inspection program of the job performance of each radiographer and radiographer's assistant to ensure that the department's regulations, license requirements, and the licensee's operating and emergency procedures are followed. The inspection program shall:

(a) Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals not to exceed six months; and

(b) Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months since the last inspection, the radiographer must demonstrate knowledge of the training requirements of WAC 246-243-130 (1)(c) and the radiographer's assistant must redemonstrate knowledge of the training requirements of WAC 246-243-130 (2)(b) by a practical examination before these individuals can next participate in a radiographic operation.

(c) The department may consider alternatives in situations where the individual serves as both radiographer and RSO.

(d) In operations where a single individual serves as both radiographer and RSO, and performs all radiography operations, an inspection program is not required.

(2) The licensee shall provide annual refresher safety training for each radiographer and radiographer's assistant at intervals not to exceed twelve months.

(3) Each licensee shall maintain the following records for three years after the record is made:

(a) For semi-annual inspection of job performance, the record shall include:

(i) A list of the items checked; and

(ii) Any noncompliances observed by the RSO;

(b) For annual refresher safety training, the record shall include:

(i) A list of the topics discussed;

(ii) The dates the training was conducted; and

(iii) Names of the instructors and attendees.

AMENDATORY SECTION (Amending Order 184, filed 7/24/91, effective 8/24/91)

WAC 246-243-060 Locking of radiographic exposure devices. (1) Each radiographic exposure device shall be provided with a lock or outerlocked container designed to prevent unauthorized or accidental production of radiation or removal or exposure of a sealed source and shall be locked when returned to the shielded position at all times. If it is a keyed-lock, the key shall be removed at all times when not under the direct surveillance of a radiographer or a radiographer's assistant except at permanent radiographic installations as stated in WAC 246-243-170. In addition, during radiographic operations the sealed source assembly shall be locked in the shielded position each time the source is returned to that position.

(2) Each sealed source storage container and source changer shall have a lock or outer locked container designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. Storage containers and source changers shall be kept locked (and if a keyed-lock,

with the key removed at all times) when containing sealed sources except when under the direct surveillance of a radiographer or a radiographer's assistant.

(3) Radiographic exposure devices, source changers, and storage containers, prior to being moved from one location to another and also prior to being secured at a given location, shall be locked and surveyed to assure that the sealed source is in the shielded position.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-080 Radiation survey instruments. (1) The licensee shall maintain sufficient calibrated and operable radiation survey instruments at each location where radioactive material is present to make physical radiation surveys as required by this part and chapter 246-221 WAC. Instrumentation required by this section shall ~~((have a range such that two milliroentgens per hour through one roentgen per hour can be measured))~~ be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.

(2) Each radiation survey instrument shall be calibrated:

(a) At ~~((energies appropriate for use and at))~~ intervals not to exceed ~~((three))~~ six months and after each instrument servicing except for battery changes;

(b) Such that accuracy within ± 20 percent ~~((traceable to a national standard))~~ of the calibration source can be demonstrated at each point checked; and

(c) ~~((At two or more widely separated points, other than zero;))~~ For linear scale instruments, at two points located approximately one-third and two-thirds of full scale on each scale; for logarithmic scale instruments, at mid-range of each decade; and for digital instruments at three points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour.

(3) Records shall be maintained of these calibrations for three years after the calibration date for inspection by the department.

AMENDATORY SECTION (Amending WSR 99-05-012, filed 2/5/99, effective 3/8/99)

WAC 246-243-090 Leak testing, repair, tagging, opening, modification, and replacement of sealed sources.

(1) The replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing, repair, tagging, opening, or any other modification of any sealed source shall be performed only by persons specifically authorized to do so by the department, the United States Nuclear Regulatory Commission, or any agreement state.

(2) Each sealed source shall be tested for leakage at intervals not to exceed six months. Sealed sources that are in storage and not in use do not require leak testing, but must be tested before use or transfer to another person if the interval of storage exceeds six months. In the absence of a certificate from a transferor that a test has been made within the six-month period prior to the transfer, the sealed source shall not be put into use until tested and results obtained.

(3) The leak test shall be capable of detecting the presence of 185 becquerels (0.005 microcurie) of removable con-

tamination on the sealed source. An acceptable leak test for sealed sources in the possession of a radiography licensee would be to test at the nearest accessible point to the sealed source storage position, or other appropriate measuring point where contamination might accumulate, by a procedure specifically approved in a license condition. Records of leak test results shall be kept in units of becquerels (microcuries) and maintained for inspection by the department for three years after the leak test is performed.

(4) Any test conducted ~~((pursuant to))~~ under subsections (2) and (3) of this section which reveals the presence of 185 becquerels (0.005 microcurie) or more of removable radioactive material shall be considered evidence that the sealed source is leaking. The licensee shall immediately withdraw the equipment involved from use and shall cause it to be decontaminated and repaired or to be disposed in accordance with regulations of the department. Within five days after obtaining results of the test, the licensee shall file a report with the department describing the involved equipment, the test results, and the corrective action taken.

(5) Each exposure device using depleted uranium (DU) shielding and an "S" tube configuration must be tested for DU contamination at intervals not to exceed twelve months. The analysis must be capable of detecting the presence of 185 becquerels (0.005 microcuries) of radioactive material on the test sample and must be performed by a person specifically authorized by the department, the United States Nuclear Regulatory Commission or an agreement state to perform the analysis. If testing reveals the presence of 185 becquerels (0.005 microcuries) or more of removable DU contamination, the exposure device must be removed from use until an evaluation of the wear on the S-tube has been made. If the evaluation reveals that the S-tube is worn through, the device may not be used again. DU shielded devices do not have to be tested for DU contamination while in storage and not in use. Before using or transferring such a device however, the device must be tested for DU contamination if the interval of storage exceeded twelve months. A record of the DU leak-test results shall be kept in units of becquerels (microcuries) and maintained for inspection by the department for three years after the DU leak test is made or until the source in storage is removed. Licensees will have until January 1, 2001, to comply with the DU leak testing requirements of this section.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-100 Quarterly inventory. Each licensee shall conduct a quarterly physical inventory to account for all sealed sources and for devices containing depleted uranium (DU) received or possessed. The records of the inventories shall be maintained for three years from the date of inventory for inspection by the department and shall include:

- (1) Exposure device or source changer make, model, and serial number;
- (2) Sealed source serial number and manufacturer;
- (3) Radionuclide and current activity in becquerels (curies) or mass (for DU) in each device;
- (4) Location of sealed source and/or device/changer;
- (5) Date of inventory;

- (6) Name of person who performed inventory.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-110 Utilization logs. (1) Each licensee shall maintain current logs, which shall be kept available for inspection by the department for three years from the date of the recorded event, at the address specified in the license showing for each sealed source and radiation exposure device the following information:

(a) A description ~~((of))~~ including the make ((and)), model and serial number of each radiation exposure device or transport or storage container in which the sealed source is located:

(b) The identity and signature of the radiographer to whom assigned; and

(c) Locations where used and dates of use including the dates removed and returned to storage.

(2) A separately identified utilization log is not required if the equivalent information is available in records of the licensee and available at the address specified in the license.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-120 Inspection and maintenance of radiographic exposure devices, ~~((control cables,))~~ transport and storage containers ~~((and)), associated equipment, source changers, and survey instruments.~~ (1) ~~((The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices, storage containers, control units (to include cables), and source changers at intervals, not to exceed three months or prior to first use thereafter to assure proper functioning of components important to safety. Records of these inspections and maintenance shall be kept for three years:~~

~~((2) The licensee shall check for obvious defects in radiographic exposure devices, storage containers, control assemblies, and source changers prior to use each day the equipment is used.~~

~~((3) The licensee's program shall include a thorough visual inspection for corrosion, and specific maintenance procedures that address corrosion removal and prevention.~~

~~((4) If any inspection conducted pursuant to subsections (1) or (2) of this section reveals damage to components critical to radiation safety, the device shall be removed from service until proper repairs have been made.~~

~~((5))~~ The licensee shall perform visual and operability checks on survey meters, radiographic exposure devices, transport and storage containers, associated equipment and source changers before use on each day the equipment is to be used to ensure that the equipment is in good working condition, that the sources are adequately shielded, and that required labeling is present. Survey instrument operability must be performed using check sources or other appropriate means. If equipment problems are found, the equipment must be removed from service until repaired.

- (2) Each licensee shall have written procedures for:

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(a) Inspection and routine maintenance of radiographic exposure devices, source changers, associated equipment, transport and storage containers, and survey instruments at intervals not to exceed three months or before the first use thereafter to ensure the proper functioning of components important to safety. Replacement components shall meet design specifications. If equipment problems are found, the equipment must be removed from service until repaired.

(b) Inspection and maintenance necessary to maintain the Type B packaging used to transport radioactive materials. The inspection and maintenance program must include procedures to assure that Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.

(3) Any maintenance performed on radiographic exposure devices and accessories shall be in accordance with the manufacturer's specifications.

(4) Records of daily checks and quarterly inspections including any equipment problems identified and of any maintenance performed under subsections (1) and (2) of this section shall be made and retained for three years. The record shall include:

(a) The date of check or inspection;

(b) Name of inspector;

(c) Equipment involved;

(d) Any problems found; and

(e) What repair and/or maintenance, if any, was done.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-130 Limitations—Personal radiation safety requirements for radiographers and radiographers' assistants. (1) No licensee shall permit any individual to act as a radiographer as defined in this chapter until such individual:

(a) Has been instructed in the subjects outlined in WAC 246-243-230, in addition to a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a certifying entity in accordance with the criteria specified in WAC 246-243-250, Appendix C or equivalent regulations of the United States Nuclear Regulatory Commission or an agreement state. The department maintains a list of recognized certifying entities for reference. The licensee may, until January 1, 2001, allow an individual who has not met the requirement of this subsection, to act as a radiographer after the individual has received training in the subjects outlined in WAC 246-243-230 and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the department;

(b) Has received copies of and instruction in the regulations contained in chapters 246-220, ~~(246-222,)~~ 246-221, 246-222, 246-231, and 246-243 WAC, in the United States Department of Transportation regulations as referenced in chapter 246-231 WAC, and the applicable sections of appropriate license(s), and the licensee's operating and emergency procedures, and shall have demonstrated understanding

thereof by successful completion of a written or oral examination covering this material;

(c) Has ~~((demonstrated competence to use the source of radiation, related handling tools, and radiation survey instruments which will be employed in the individual's assignment))~~ received training in the use of the licensee's radiographic exposure devices, sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the ~~((instructions in this paragraph))~~ use of radiographic exposure devices, sources, survey instruments and associated equipment described in subsection (1)(c) of this section by successful completion of ~~((written test and a field))~~ a practical examination on the subjects covered.

(2) No licensee shall permit any individual to act as a radiographer's assistant as defined in this ~~((part))~~ chapter until such individual:

(a) Has received copies of and instruction in the regulations contained in chapters 246-220, 246-221, 246-222, 246-231, and 246-243 WAC, in the United States Department of Transportation regulations as referenced in chapter 246-231 WAC, and the applicable sections of appropriate license(s), and the licensee's operating and emergency procedures;

(b) Has ~~((demonstrated))~~ developed competence to use under the personal supervision of the radiographer the ~~((sources of radiation, related handling tools))~~ radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments which will be employed in the individual's assignment; and

(c) Has demonstrated understanding of the instructions ~~((in this paragraph))~~ provided under (a) of this subsection by successfully completing a written ~~((or oral))~~ test ~~((and a field))~~ on the subjects covered and has demonstrated competence in the use of the hardware described in (b) of this subsection by successful completion of a practical examination on the ~~((subjects covered; and~~

~~((d) Records of the above training including copies of written tests and dates of oral tests and field examinations shall be maintained for at least one year following termination of employment))~~ use of such hardware.

(3) Each licensee shall maintain, for inspection by the department, records of training and ~~((testing))~~ certification which demonstrate that the requirements of subsections (1) and (2) of this section ~~((and WAC 246-235-080 (5)(a)))~~ are met. These records shall be maintained for three years after the record is made. The record shall include:

(a) Radiographer certification documents and verification of certification status;

(b) Copies of written tests;

(c) Dates of oral and practical examinations; and

(d) Names of individuals conducting and receiving the oral and practical examinations.

(4) Licensees will have until January 1, 2001, to comply with the certification requirements specified in subsection (1)(a) of this section, and the additional training requirements specified in subsections (1)(b) and (2)(a) of this section.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-140 Operating and emergency procedures. The licensee's operating and emergency procedures shall include instructions in at least the following:

(1) The handling and use of sources of radiation to be employed such that no individual is likely to be exposed to radiation doses in excess of the limits established in chapter 246-221 WAC Standards for protection against radiation;

(2) Methods and occasions for conducting radiation surveys;

(3) Methods for controlling access to radiographic areas;

(4) Methods and occasions for locking and securing sources of radiation including radiographic exposure devices, transport and storage containers, and sealed sources;

(5) Personnel monitoring and the use of personnel monitoring equipment including steps that must be taken immediately by radiography personnel ~~((in the event))~~ if a pocket dosimeter is found to be off-scale or an alarm rate meter alarms unexpectedly;

(6) Transportation to field locations, including packing of sources of radiation in the vehicles, ~~((posting))~~ placarding of vehicles when needed, and control of sources of radiation during transportation;

(7) Minimizing exposure of individuals in the event of an accident;

(8) Notifying proper personnel in the event of a theft, loss, overexposure or accident involving sources of radiation;

(9) Maintenance of records;

(10) The inspection ~~((and)),~~ maintenance, and operability checks of radiographic exposure devices, survey instruments, transport containers, and storage containers; ~~((and))~~

(11) Identifying and reporting defects and noncompliance as required by these regulations; and

(12) Source recovery procedures if the licensee will perform source recovery.

NEW SECTION

WAC 246-243-141 Copies of operating and emergency procedures. Each licensee shall maintain a copy of current operating and emergency procedures until the department terminates the license. Superseded material shall be retained for three years after the change is approved.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-150 Personnel monitoring control. (1) No licensee shall permit any individual to act as a radiographer or as a radiographer's assistant unless, at all times during radiographic operations, each such individual shall wear on the trunk of the body a combination of an approved personnel dosimeter such as a film or TLD badge, a direct reading pocket dosimeter, and an alarming rate meter. In permanent facilities where other appropriate alarming or warning devices are in routine use, the wearing of an alarming rate meter is not required.

(a) Pocket dosimeters shall be capable of measuring exposures from zero to at least 200 milliroentgens. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(b) A film or TLD badge or other approved personnel dosimeter shall be assigned to and worn by only one individual.

(c) Film badges must be replaced at periods not to exceed one month and TLDs must be replaced at periods not to exceed three months.

(d) After replacement, each film badge or TLD must be processed as soon as possible.

(2)(a) Direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters shall be read and exposures recorded ((daily)) at the beginning and end of each shift. Pocket dosimeters shall be charged at the beginning of each ((working day)) shift. Pocket dosimeters shall be checked annually at periods not to exceed ((thirteen)) twelve months for correct response to radiation. Acceptable dosimeters shall read within plus or minus twenty percent of the true radiation exposure.

(b) Each alarming rate meter must:

(i) Be checked to ensure that the alarm functions properly (sounds) prior to use at the start of each shift;

(ii) Be set to give an alarm signal at a maximum preset rate of 5 mSv/hr. (500 mR/hr.);

(iii) Require special means to change the preset alarm functions; and

(iv) Be calibrated annually at periods not to exceed ~~((thirteen))~~ twelve months for correct response to radiation. Acceptable rate meters must alarm within plus or minus twenty percent of the true radiation exposure rate.

~~((c) A film or TLD badge shall be immediately processed if a pocket dosimeter is discharged beyond its range during normal use. The film or TLD badge reports received from the film or TLD badge processor and records of pocket dosimeter readings shall be maintained for inspection by the department until it authorizes their disposal.))~~ (3) If an individual's pocket dosimeter is found to be off-scale, or if his or her electronic personal dosimeter reads greater than 2 millisieverts (200 millirems), and the possibility of radiation exposure cannot be ruled out as the cause, the individual's film badge or TLD must be sent for processing within twenty-four hours. In addition, the individual may not resume work associated with licensed material use until a determination of the individual's radiation exposure has been made. This determination shall be made by the RSO or the RSO's designee.

(4) If a film badge or TLD is lost or damaged, the worker shall cease work immediately until a replacement film badge or TLD is provided and the exposure is calculated for the time period from issuance to loss or damage of the film badge or TLD.

(5) Each licensee shall maintain the following exposure records:

(a) Direct reading dosimeter readings and yearly operability checks required by subsection (2) of this section for three years after the record is made.

(b) Records of alarm rate meter calibrations for three years after the record is made.

(c) Reports received from the film badge or TLD processor until the department terminates the licensee.

(d) Records of estimates of exposures as a result of: Off-scale personal direct reading dosimeters, or lost or damaged film badges or TLDs, until the department terminates the license.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-160 Supervision of radiographers' assistants. Whenever a radiographer's assistant uses radiographic exposure devices, uses sealed sources or ~~((related source handling tools))~~ associated equipment, or conducts radiation surveys required by WAC 246-243-190 ~~((2), (3), (4), or (5))~~ to determine that the sealed source has returned to the shielded position after an exposure, he or she shall be under the personal supervision of a radiographer, as defined in WAC 246-243-020. Personal supervision shall include (1) the radiographer's personal presence at the site where the sealed sources are being used, (2) the ability of the radiographer to communicate and give immediate assistance if required, and (3) the radiographer's ability to observe the performance of his/her assistant during the operations referred to in this section.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-170 Security—Precautionary procedures in radiographic operations. (1) During each radiographic operation, the radiographer or radiographer's assistant shall maintain ~~((a))~~ continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in chapter 246-220 WAC except:

~~((a) Where the high radiation area is equipped with a control device or alarm system as described in WAC 246-221-102(1); or~~

~~(b) Where the high radiation area is locked to protect against unauthorized or accidental entry.)~~ At permanent radiographic installations where all entryways are locked and the requirements of WAC 246-243-220 are met.

(2) When not in operation or when not under direct surveillance, portable radiation exposure devices shall be physically secured to prevent removal by unauthorized personnel.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-180 Posting. ~~((Notwithstanding any provisions in paragraph WAC 246-221-130 areas in which radiography is being performed or in which a radiographic exposure device is being stored shall be conspicuously posted and access to the area shall be controlled as required by WAC 246-221-120 and 246-221-102(1).~~

~~(1) All potential radiation areas where industrial radiographic operations are to be performed shall be posted based on calculated or estimated exposure rates before industrial radiography operations begin.~~

~~(2) Each time the exposure device is relocated and/or the exposed position of the sealed source is changed, the requirements of subsection (1) of this section shall be met.)~~ All areas in which industrial radiography is being performed shall be conspicuously posted as required by WAC 246-221-120. Exceptions listed in WAC 246-221-130 do not apply to industrial radiographic operations.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-190 Radiation surveys and survey records. ~~((1) No radiographic operation shall be conducted unless calibrated and operable radiation survey instrumentation as described in WAC 246-243-080 is available and used at each site where radiographic operations are being performed and at the storage area whenever a radiographic exposure device, a storage container, or source is being placed in storage.~~

~~(2) A physical radiation survey shall be made after each radiographic exposure utilizing radiographic exposure devices or sealed sources of radioactive material to determine that the sealed source has been returned to its shielded position. The horizontal circumference of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall include the guide tube.~~

~~(3) A physical radiation survey shall be made to determine that each sealed source is in its shielded condition prior to securing the radiographic exposure device or storage container as specified in WAC 246-243-060. The horizontal circumference of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall include the guide tube.~~

~~(4))~~ The licensee shall:

(1) Conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of WAC 246-243-080.

(2) Using a survey instrument meeting the requirements of subsection (1) of this section, conduct a survey of the radiographic exposure device and the guide tube after each exposure when approaching the device or the guide tube. The survey shall determine that the sealed source has returned to its shielded position before exchanging films, repositioning the exposure head, or dismantling equipment.

(3) Conduct a survey of the radiographic exposure device with a calibrated radiation survey instrument any time the source is exchanged and whenever a radiographic exposure device is placed in a storage area to ensure that the sealed source is in its shielded position.

(4) Conduct a physical radiation survey ((shall be made)) of the boundary of the restricted area during radiographic operations not employing shielded room radiography. The maximum survey reading at the boundary shall be recorded. The records shall indicate approximate distance from source to boundaries, whether or not the exposed source is collimated and any occupied areas with exposure levels greater than 2 mR in any hour during radiographic operations.

~~(5) ((A survey with a calibrated and operable survey instrument shall be made any time a radiographic exposure~~

device is placed into the storage area to ensure that the sealed source is in its shielded position. The horizontal circumference of the radiographic exposure device with emphasis on the source exit port must be surveyed.

(6)) Maintain a record of each exposure device survey conducted before the device is placed in storage if that survey is the last one performed in the workday, and records required by subsection((s(3);) (4)((, and(5))) of this section ((shall include)), including the model and serial number of the survey meter used ((and shall be maintained)), for inspection by the department for three years after completion of the survey. If the survey was used to determine an individual's exposure, however, the records of the survey shall be maintained until the department authorizes their disposition.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-195 Reporting. (1) In addition to the reporting requirements specified in other sections of the regulations, each licensee shall provide a written report to the department within thirty days of the occurrence of any of the following incidents involving radiographic equipment:

- (a) Unintentional disconnection of the source assembly from the control cable.
 - (b) Inability to retract the source assembly to its fully shielded position and secure it in this position.
 - (c) Failure of any component (critical to safe operation of the device) to properly perform its intended function.
- (2) The licensee shall include the following information in each report submitted under subsection (1) of the section.
- (a) A description of the equipment problem;
 - (b) Cause of each incident, if known;
 - (c) Manufacturer and model number of equipment involved in the incident;
 - (d) Place, time, and date of incident;
 - (e) Actions taken to reestablish normal operations;
 - (f) Corrective actions taken or planned to prevent recurrence;

(g) Qualifications of personnel involved in the incident.

(3) Reports of overexposure submitted under WAC 246-221-260 which involve failure of safety components of radiographic equipment must also include the information specified in subsection (2) of this section.

(4) Any licensee conducting radiographic operations or storing radioactive material at any location not listed on the license for a period in excess of one hundred eighty days in a calendar year, shall notify the department prior to exceeding the one hundred eighty days.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-200 Records required at temporary job sites. Each licensee conducting radiographic operations at a temporary site shall have copies of the following documents and records available at that site for inspection by the department:

- (1) Appropriate license;
- (2) Operating and emergency procedures;

- (3) Applicable regulations;
- (4) Survey records required pursuant to WAC 246-243-190 for the period of operation at the site;
- (5) ~~((Daily pocket))~~ Direct reading dosimeter records for the period of operation at the site;
- (6) The latest radiation survey instrument calibration record and leak test record for specific devices in use at the site;
- (7) The latest calibration record for alarm rate meters and operability checks of pocket dosimeters and/or electronic personal dosimeters as required by WAC 246-243-150;
- (8) Utilization records for each radiographic exposure device dispatched from that location as required by WAC 246-243-110;
- (9) Records of equipment problems identified in daily checks of equipment as required by WAC 246-243-120;
- (10) Records of alarm system and entrance control checks required by WAC 246-243-220, if applicable;
- (11) The shipping papers for the transportation of radioactive materials; and
- (12) When operating under reciprocity pursuant to WAC 246-232-040, a copy of the NRC or agreement state license authorizing the use of radioactive material.

NEW SECTION

WAC 246-243-203 Form of records. Each record required by this chapter must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of reproducing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-220 Special requirements for permanent radiographic installation. ~~((Permanent radiographic installations having high radiation area entrance controls of the types described in WAC 246-221-102(1) or where the high radiation area is locked to protect against unauthorized or accidental entry, shall also meet the following special requirements.))~~

(1) Each entrance that is used for personnel access to the high radiation area in a permanent radiographic installation to which this section applies shall have either:

(a) An entrance control of the type described in WAC 246-221-102(1) that reduces the radiation level upon entry into the area; or

(b) Both conspicuous visible and audible warning signals to warn of the presence of radiation. The visible signal shall be actuated by radiation whenever the source is

exposed. The audible signal shall be actuated when an attempt is made to enter the installation while the source is exposed.

(2) ~~((Both visible and audible alarm systems are required and shall be tested prior to the first use of a source in the installation and thereafter at intervals not to exceed three months. Records of the tests shall be kept))~~ The alarm system must be tested for proper operation with a radiation source each day before the installation is used for radiographic operations. The test must include a check of both the visible and audible signals. Entrance control devices that reduce the radiation level upon entry (designated in subsection (1)(a) of this section) shall be tested monthly. If an entrance control device or an alarm is operating improperly, it must be immediately labeled as defective and repaired within seven calendar days. The facility may continue to be used during this seven-day period, provided the licensee implements the continuous surveillance requirements of WAC 246-243-170 and uses an alarming rate meter. Test records for entrance controls and audible and visual alarm must be maintained for three years after the record is made.

(3) The department shall review and approve, in advance of construction, plans for permanent radiographic installations whose construction had not commenced by the effective date of these regulations. Construction of the permanent facility shall be in accordance with the plans approved by the department.

(4) A physical radiation survey shall be conducted and results recorded following construction or major modification of the facility to be used in the installation. Radiography shall not be conducted if exposure levels in unrestricted areas are greater than 2 mR in any hour. Any increase in source strength will require resurvey of the installation prior to the conduct of industrial radiography.

AMENDATORY SECTION (Amending WSR 94-01-073, filed 12/9/93, effective 1/9/94)

WAC 246-243-230 Appendix A—Minimum subjects to be covered in training radiographers. (1) *Fundamentals of radiation safety*

- (a) Characteristics of ionizing radiation
- (b) Units of radiation dose (~~((mrem))~~) and quantity of radioactivity (~~((curie))~~)
- (c) Hazards of exposure to radiation
 - (i) Radiation protection standards
 - (ii) Biological effects of radiation dose
- (d) Levels of radiation from sources of radiation
- (e) Methods of controlling radiation dose
 - (i) Working time
 - (ii) Working distances
 - (iii) Shielding
- (2) *Radiation detection instrumentation to be used*
 - (a) Use of radiation survey instruments
 - (i) Operation
 - (ii) Calibration
 - (iii) Limitations
 - (b) Survey techniques
 - (c) Use of personnel monitoring equipment

- (i) Film badges
- (ii) Pocket dosimeters
- (iii) Thermoluminescent dosimeters
- (iv) Alarming rate meters

(3) *Radiographic equipment to be used*

(a) Operation and control of remote handling equipment, radiographic exposure equipment, and storage containers, including pictures or models of source assemblies (pigtailed

~~sources))~~ Inspection and maintenance of equipment

(c) Storage (~~(containers))~~, control, and disposal of licensed material

(4) *The requirements of pertinent federal and state regulations*

(5) *The licensee's written operating and emergency procedures*

(6) *Case histories of radiography accidents.*

NEW SECTION

WAC 246-243-250 Appendix C—Radiographer certification. (1) Requirements for an independent certifying organization. An independent certifying organization shall:

(a) Be an organization such as a society or association, whose members participate in, or have an interest in, the fields of industrial radiography;

(b) Make its membership available to the general public nationwide that is not restricted because of race, color, religion, sex, age, national origin or disability;

(c) Have a certification program open to nonmembers, as well as members;

(d) Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;

(e) Have an adequate staff, a viable system for financing its operations, and a policy- and decision-making review board;

(f) Have a set of written organizational by-laws and policies that provide adequate assurance of lack of conflict of interest and a system for monitoring and enforcing those by-laws and policies;

(g) Have a committee, whose members can carry out their responsibilities impartially, to review and approve the certification guidelines and procedures, and to advise the organization's staff in implementing the certification program.

(h) Have a committee, whose members can carry out their responsibilities impartially, to review complaints against certified individuals and to determine appropriate sanctions;

(i) Have written procedures describing all aspects of its certification program, maintain records of the current status of each individual's certification and the administration of its certification program;

(j) Have procedures to ensure that certified individuals are provided due process with respect to the administration of its certification program, including the process of becoming certified and any sanctions imposed against certified individuals;

(k) Have procedures for proctoring examinations, including qualifications for proctors. These procedures must ensure that the individuals proctoring each examination are not employed by the same company or corporation (or a wholly owned subsidiary of such company or corporation) as any of the examinees;

(l) Exchange information about certified individuals with the department, the US Nuclear Regulatory Commission, other independent certifying organizations and/or agreement states and allow periodic review of its certification program and related records; and

(m) Provide a description to the department of its procedures for choosing examination sites and for providing an appropriate examination environment.

(2) Requirements for certification programs. All certification programs must:

(a) Require applicants for certification to:

(i) Receive training in the topics set forth in WAC 246-243-230 or equivalent NRC or agreement state regulations; and

(ii) Satisfactorily complete a written examination covering these topics;

(b) Require applicants for certification to provide documentation that demonstrates that the applicant has:

(i) Received training in the topics set forth in WAC 246-243-230 or equivalent NRC or agreement state regulations;

(ii) Satisfactorily completed a minimum period of on-the-job training; and

(iii) Received verification by an agreement state or a NRC licensee that the applicant has demonstrated the capability of independently working as a radiographer;

(c) Include procedures to ensure that all examination questions are protected from disclosure;

(d) Include procedures for denying an application, revoking, suspending, and reinstating a certificate;

(e) Provide a certification period of not less than three years nor more than five years;

(f) Include procedures for renewing certifications and, if the procedures allow renewals without examination, require evidence of recent full-time employment and annual refresher training;

(g) Provide a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

(3) Requirements for written examinations.

All examinations must be:

(a) Designed to test an individual's knowledge and understanding of the topics listed in WAC 246-243-230 or equivalent NRC or agreement state requirements;

(b) Written in a multiple-choice format;

(c) Have test items drawn from a question bank containing psychometrically valid questions based on the material in WAC 246-243-230.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-243-210

Special requirements for enclosed radiography.

AMENDATORY SECTION (Amending Order 208, filed 10/29/91, effective 11/29/91)

WAC 246-254-150 Fees for perpetual care and maintenance. (1) Persons with licenses specifically authorizing the receipt, possession, or use of natural uranium and its decay daughters for the extraction of uranium or thorium compounds or for the reclamation and disposal of the associated tailings or waste shall:

(a) Make quarterly payments of twenty cents per kilogram of uranium or thorium compound milled out of the raw ore;

(b) Remit this payment within thirty days after the end of each calendar quarter; and

(c) Pay to the department a minimum of two hundred fifty thousand dollars (1978 dollars) to cover the costs of long-term surveillance prior to the termination of a uranium or thorium mill license.

(2) Licensees under this section may make additional payments to meet the minimum, prior to the release of any surety arranged by the licensee in accordance with WAC ((246-235-080-(6)(a))) 246-235-086(4).

AMENDATORY SECTION (Amending Order 187, filed 8/7/91, effective 9/7/91)

WAC 246-252-001 Reclamation and decommissioning. A specific plan for reclamation and disposal of tailings and for decommissioning the site of uranium or thorium milling operations shall be included as part of the proposed action assessed under SEPA regulations and guidelines as required by WAC ((246-235-080-(6)(a))) 246-235-086(1) for licensing of environmentally significant operations. For any uranium or thorium mill in operation on or before the effective date of this regulation for which a plan for reclamation and disposal of tailings and decommissioning of the site has not been submitted and assessed, such a plan must be submitted to the department and a final environmental impact statement or final declaration of nonsignificance must accompany or precede the license renewal.

AMENDATORY SECTION (Amending WSR 97-13-055, filed 6/16/97, effective 7/17/97)

WAC 246-252-030 Criteria related to disposition of uranium mill tailings or wastes. As used in this section, the term "as low as reasonably achievable" has the same meaning as in WAC 246-220-007. The term by-product material means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

PROPOSED

As required by WAC 246-235-110(6), each applicant for a license to possess and use source material in conjunction with uranium or thorium milling, or by-product material at sites formerly associated with such milling, is required to include in a license application proposed specifications relating to the milling operation and the disposition of tailings or waste resulting from such milling activities. This section establishes criteria relating to the siting, operation, decontamination, decommissioning, and reclamation of mills and tailings or waste systems and sites at which such mills and systems are located and site and by-product material ownership. Applications must clearly demonstrate how these criteria have been addressed. The specifications shall be developed considering the expected full capacity of tailings or waste systems and the lifetime of mill operations. Where later expansions of systems or operations may be likely, the amenability of the disposal system to accommodate increased capacities without degradation in long-term stability and other performance factors shall be evaluated.

Licensees or applicants may propose alternatives to the specific requirements in these criteria. The alternative proposals may take into account local or regional conditions, including geology, topography, hydrology, and meteorology. The department may find that the proposed alternatives meet the department's requirements if the alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with the sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the requirements of the standards promulgated by the United States Environmental Protection Agency in 40 CFR 192, Subparts D and E.

(1) Criterion 1 - In selecting among alternative tailings disposal sites or judging the adequacy of existing tailings sites, the following site features which would contribute to meeting the broad objective of permanent isolation of the tailings and associated contaminants from man and the environment for one thousand years to the extent reasonably achievable, and in any case, for at least two hundred years without ongoing active maintenance shall be considered:

- (a) Remoteness from populated areas;
- (b) Hydrogeologic and other environmental conditions conducive to continued immobilization and isolation of contaminants from groundwater sources; and
- (c) Potential for minimizing erosion, disturbance, and dispersion by natural forces over the long term.

The site selection process must be an optimization to the maximum extent reasonably achievable in terms of these features.

In the selection of disposal sites, primary emphasis shall be given to isolation of tailings or wastes, a matter having long-term impacts, as opposed to consideration only of short-term convenience or benefits, such as minimization of transportation or land acquisition costs. While isolation of tailings will be a function of both site characteristics and engineering design, overriding consideration shall be given to siting features given the long-term nature of the tailings hazards.

Tailings shall be disposed in a manner such that no active maintenance is required to preserve the condition of the site.

(2) Criterion 2 - To avoid proliferation of small waste disposal sites, by-product material from in-situ extraction operations, such as residues from solution evaporation or contaminated control processes, and wastes from small remote above ground extraction operations shall be disposed at existing large mill tailings disposal sites; unless, considering the nature of the wastes, such as their volume and specific activity and the costs and environmental impacts of transporting the wastes to a large disposal site, such offsite disposal is demonstrated to be impracticable or the advantage of onsite burial clearly outweighs the benefits of reducing the perpetual surveillance obligations.

(3) Criterion 3 - The "prime option" for disposal of tailings is placement below grade, either in mines or specially excavated pits (that is, where the need for any specially constructed retention structure is eliminated).

The evaluation of alternative sites and disposal methods performed by mill operators in support of their proposed tailings disposal program (provided in applicants' environmental reports) shall reflect serious consideration of this disposal mode. In some instances, below grade disposal may not be the most environmentally sound approach, such as might be the case if a groundwater formation is relatively close to the surface or not very well isolated by overlying soils and rock. Also, geologic and topographic conditions might make full, below grade burial impracticable; for example, near-surface bedrock could create prominent excavation costs while more suitable alternate sites may be available. Where full below grade burial is not practicable, the size of the retention structures, and the size and steepness of slopes of associated exposed embankments, shall be minimized by excavation to the maximum extent reasonably achievable or appropriate, given the geologic and hydrogeologic conditions at a site. In these cases, it must be demonstrated that an above-grade disposal program will provide reasonably equivalent isolation of the tailings from natural erosional forces.

(4) Criterion 4 - The following site and design criteria shall be adhered to whether tailings or wastes are disposed of above or below grade:

(a) Upstream rainfall catchment areas must be minimized to decrease erosion potential and the size of the probable maximum flood which could erode or wash out sections of the tailings disposal area.

(b) Topographic features shall provide good wind protection.

(c) Embankment and cover slopes shall be relatively flat after final stabilization to minimize erosion potential and to provide conservative factors of safety assuring long-term stability. The broad objective should be to contour final slopes to grades which are as close as possible to those which would be provided if tailings were disposed of below grade; this could, for example, lead to slopes of about ten horizontal to one vertical (10h:1v) or less steep. In general, slopes should not be steeper than about 5h:1v. Where steeper slopes are proposed, reasons why a slope less steep than 5h:1v would be impracticable should be provided, and compensating factors

and conditions which make such slopes acceptable should be identified.

(d) A fully self-sustaining vegetative cover shall be established or rock cover employed to reduce wind and water erosion to negligible levels.

Where a full vegetative cover is not likely to be self-sustaining due to climatic conditions, such as in semi-arid and arid regions, rock cover shall be employed on slopes of the impoundment system. The NRC will consider relaxing this requirement for extremely gentle slopes such as those which may exist on the top of the pile.

The following factors shall be considered in establishing the final rock cover design to avoid displacement of rock particles by human and animal traffic or by natural processes, and to preclude undercutting and piping:

(i) Shape, size, composition, gradation of rock particles (excepting bedding material, average particle size shall be at least cobble size or greater);

(ii) Rock cover thickness and zoning of particles by size; and

(iii) Steepness of underlying slopes.

(e) Individual rock fragments shall be dense, sound, and resistant to abrasion, and free from defects that would tend to unduly increase their destruction by water and frost actions. Weak, friable, or laminated aggregate shall not be used. Shale, rock laminated with shale, and cherts shall not be used.

Rock covering of slopes may not be required where top covers are on the order of ten meters or greater; impoundment slopes are on the order of 10h:1v or less; bulk cover materials have inherently favorable erosion resistance characteristics; and there is negligible drainage catchment area upstream of the pile, and there is good wind protection as described in (a) and (b) of this subsection.

(f) Impoundment surfaces shall be contoured to avoid areas of concentrated surface runoff or abrupt or sharp changes in slope gradient. In addition to rock cover on slopes, areas toward which surface runoff might be directed shall be well protected with substantial rock cover (riprap). In addition to providing for stability of the impoundment systems itself, the overall stability, erosion potential, and geomorphology of surrounding terrain shall be evaluated to assure that there are no processes, such as gully erosion, which would lead to impoundment instability.

(g) The impoundment shall not be located near a capable fault that could cause a maximum credible earthquake larger than that which the impoundment could reasonably be expected to withstand. As used in this criterion, the term "capable fault" has the same meaning as defined in Section III (g) of Appendix A of 10 CFR Part 100. The term "maximum credible earthquake" means that earthquake which would cause the maximum vibratory ground motion based upon an evaluation of earthquake potential considering the regional and local geology and seismology and specific characteristics of local subsurface material.

(h) The impoundment, where feasible, should be designed to incorporate features which will promote deposition of suspended particles. For example, design features which promote deposition of sediment suspended in any runoff which flows into the impoundment area might be utilized;

the object of such a design feature would be to enhance the thickness of cover over time.

(5) Criterion 5 - Criteria 5(a) through 5(g) and new Criterion 13 incorporate the basic groundwater protection standards imposed by the United States Environmental Protection Agency in 40 CFR Part 192, Subparts D and E (48 FR 45926; October 7, 1983) which apply during operations and prior to the end of closure. Groundwater monitoring to comply with these standards is required by Criterion 7.

(a) The primary groundwater protection standard is a design standard for surface impoundments used to manage uranium and thorium by-product material. Surface impoundments (except for an existing portion) must have a liner that is designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil, groundwater, or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil, groundwater, or surface water) during the active life of the facility, provided that impoundment closure includes removal or decontamination of all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate. For impoundments that will be closed with the liner material left in place, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility.

(b) The liner required by (a) of this subsection must be:

(i) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(ii) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(iii) Installed to cover all surrounding earth likely to be in contact with the wastes or leachate.

(c) The applicant or licensee will be exempted from the requirements of (a) of this subsection if the department finds, based on a demonstration by the applicant or licensee, that alternate design and operating practices, including the closure plan, together with site characteristics will prevent the migration of any hazardous constituents into groundwater or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and groundwater or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.

(d) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overflowing; wind and wave actions; rainfall; run-on; from malfunctions of level controllers, alarms, and other equipment; and human error.

(e) When dikes are used to form the surface impoundment, the dikes must be designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the impoundment.

(f) Uranium and thorium by-product materials must be managed to conform to the following secondary groundwater protection standard: Hazardous constituents entering the groundwater from a licensed site must not exceed the specified concentration limits in the uppermost aquifer beyond the point of compliance during the compliance period. Hazardous constituents are those constituents identified by the department pursuant to (g) of this subsection. Specified concentration limits are those limits established by the department as indicated in (j) of this subsection. The department will also establish the point of compliance and compliance period on a site specific basis through license conditions and orders. The objective in selecting the point of compliance is to provide the earliest practicable warning that the impoundment is releasing hazardous constituents to the groundwater. The point of compliance must be selected to provide prompt indication of groundwater contamination on the hydraulically downgradient edge of the disposal area. The department must identify hazardous constituents, establish concentration limits, set the compliance period, and adjust the point of compliance, if needed, when the detection monitoring established under criterion 7 indicates leakage of hazardous constituents from the disposal area.

(g) A constituent becomes a hazardous constituent subject to (j) of this subsection when the constituent:

(i) Is reasonably expected to be in or derived from the by-product material in the disposal area;

(ii) Has been detected in the groundwater in the uppermost aquifer; and

(iii) Is listed in WAC 246-252-050 Appendix A.

(h) The department may exclude a detected constituent from the set of hazardous constituents on a site specific basis if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to exclude constituents, the department will consider the following:

(i) Potential adverse effect on groundwater quality, considering —

(A) The physical and chemical characteristics of the waste in the licensed site, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of groundwater users;

(E) The current and future uses of groundwater in the area;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering —

(A) The volume and physical and chemical characteristics of the waste in the licensed site;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the licensed site to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects.

(i) In making any determinations under (h) and (k) of this subsection about the use of groundwater in the area around the facility, the department will consider any identification of underground sources of drinking water and exempted aquifers made by the United States Environmental Protection Agency.

(j) At the point of compliance, the concentration of a hazardous constituent must not exceed —

(i) The department approved background concentration of that constituent in the groundwater;

(ii) The respective value given in the table in subsection (5)(l) of this section if the constituent is listed in the table and if the background level of the constituent is below the value listed; or

(iii) An alternate concentration limit established by the department.

(k) Conceptually, background concentrations pose no incremental hazards and the drinking water limits in (j)(i) of this subsection state acceptable hazards but these two options may not be practically achievable at a specific site. Alternate concentration limits that present no significant hazard may be proposed by licensees for department consideration. Licensees must provide the basis for any proposed limits including consideration of practicable corrective actions, that limits are

as low as reasonably achievable, and information on the factors the department must consider.

The department will establish a site specific alternate concentration limit for a hazardous constituent as provided in (j) of this subsection if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will apply its as low as reasonably achievable criterion in this chapter. The department will also consider the following factors:

(i) Potential adverse effects on groundwater quality, considering —

(A) The physical and chemical characteristics of the waste in the licensed site including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of groundwater and the direction of groundwater flow;

(D) The proximity and withdrawal rates of groundwater users;

(E) The current and future uses of groundwater in the area;

(F) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;

(I) The persistence and permanence of the potential adverse effects.

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering —

(A) The volume and physical and chemical characteristics of the waste in the licensed site;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of groundwater, and the direction of groundwater flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the licensed site to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects.

(l) MAXIMUM VALUES FOR GROUNDWATER PROTECTION:

Constituent or Property	Maximum Concentration
	Milligrams per liter
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin (1,2,3,4,10,10-hexachloro-1,7 -epoxy-1,4,4a,5,6,7,8,9a-octahydro-1,4-endo,endo-5,8-dimethano naphthalene)	0.0002
Lindane (1,2,3,4,5,6-hexachlorocyclohexane, gamma isomer)	0.004
Methoxychlor (1,1,1-Trichloro-2,2-bis(p-methoxyphenylethane)	0.1
Toxaphene (C ₁₀ H ₁₀ Cl ₆ , Technical chlorinated camphene, 67-69 percent chlorine)	0.005
2,4-D (2,4-Dichlorophenoxyacetic acid)	0.1
2,4,5-TP Silvex (2,4,5-Trichlorophenoxypropionic acid)	0.01
	Picocuries per liter
Combined radium - 226 and radium - 228	5
Gross alpha - particle activity (excluding radon and uranium when producing uranium by-product material or thorium when producing thorium by-product material)	15

(m) If the groundwater protection standards established under (f) of this subsection are exceeded at a licensed site, a corrective action program must be put into operation as soon as is practicable, and in no event later than eighteen months after the department finds that the standards have been exceeded. The licensee shall submit the proposed corrective action program and supporting rationale for department approval prior to putting the program into operation, unless otherwise directed by the department. The objective of the program is to return hazardous constituent concentration levels in groundwater to the concentration limits set as standards. The licensee's proposed program must address removing the hazardous constituents that have entered the groundwater at the point of compliance or treating them in place. The program must also address removing or treating in place any hazardous constituents that exceed concentration limits in groundwater between the point of compliance and the downgradient facility property boundary. The licensee shall continue corrective action measures to the extent necessary to achieve and maintain compliance with the groundwater protection standard. The department will determine when the licensee may terminate corrective action measures based on

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data from the groundwater monitoring program and other information that provide reasonable assurance that the groundwater protection standard will not be exceeded.

(n) In developing and conducting groundwater protection programs, applicants and licensees shall also consider the following:

(i) Installation of bottom liners (where synthetic liners are used, a leakage detection system must be installed immediately below the liner to ensure major failures are detected if they occur. This is in addition to the groundwater monitoring program conducted as provided in Criterion 7. Where clay liners are proposed or relatively thin, in-situ clay soils are to be relied upon for seepage control, tests must be conducted with representative tailings solutions and clay materials to confirm that no significant deterioration of permeability or stability properties will occur with continuous exposure of clay to tailings solutions. Tests must be run for a sufficient period of time to reveal any effects if they are going to occur (in some cases deterioration has been observed to occur rather rapidly after about nine months of exposure)).

(ii) Mill process designs which provide the maximum practicable recycle of solutions and conservation of water to reduce the net input of liquid to the tailings impoundment.

(iii) Dewatering of tailings by process devices and/or in-situ drainage systems (at new sites, tailings must be dewatered by a drainage system installed at the bottom of the impoundment to lower the phreatic surface and reduce the driving head of seepage, unless tests show tailings are not amenable to such a system. Where in-situ dewatering is to be conducted, the impoundment bottom must be graded to assure that the drains are at a low point. The drains must be protected by suitable filter materials to assure that drains remain free running. The drainage system must also be adequately sized to assure good drainage).

(iv) Neutralization to promote immobilization of hazardous constituents.

(o) Where groundwater impacts are occurring at an existing site due to seepage, action must be taken to alleviate conditions that lead to excessive seepage impacts and restore groundwater quality. The specific seepage control and groundwater protection method, or combination of methods, to be used must be worked out on a site-specific basis. Technical specifications must be prepared to control installation of seepage control systems. A quality assurance, testing, and inspection program, which includes supervision by a qualified engineer or scientist, must be established to assure the specifications are met.

(p) In support of a tailings disposal system proposal, the applicant/operator shall supply information concerning the following:

(i) The chemical and radioactive characteristics of the waste solutions.

(ii) The characteristics of the underlying soil and geologic formations particularly as they will control transport of contaminants and solutions. This includes detailed information concerning extent, thickness, uniformity, shape, and orientation of underlying strata. Hydraulic gradients and conductivities of the various formations must be determined. This information must be gathered from borings and field survey methods taken within the proposed impoundment area

and in surrounding areas where contaminants might migrate to groundwater. The information gathered on boreholes must include both geologic and geophysical logs in sufficient number and degree of sophistication to allow determining significant discontinuities, fractures, and channeled deposits of high hydraulic conductivity. If field survey methods are used, they should be in addition to and calibrated with borehole logging. Hydrologic parameters such as permeability may not be determined on the basis of laboratory analysis of samples alone; a sufficient amount of field testing (e.g., pump tests) must be conducted to assure actual field properties are adequately understood. Testing must be conducted to allow estimating chemi-sorption attenuation properties of underlying soil and rock.

(iii) Location, extent, quality, capacity and current uses of any groundwater at and near the site.

(q) Steps must be taken during stockpiling of ore to minimize penetration of radionuclides into underlying soils; suitable methods include lining and/or compaction of ore storage areas.

(6) Criterion 6 - (a) In disposing of waste by-product material, licensees shall place an earthen cover (or approved alternative) over tailings or wastes at the end of milling operations and shall close the waste disposal area in accordance with a design¹ which provides reasonable assurance of control of radiological hazards to:

(i) Be effective for 1,000 years, to the extent reasonably achievable, and, in any case, for at least 200 years; and

(ii) Limit releases of Radon-222 from uranium by-product materials, and Radon-220 from thorium by-product materials, to the atmosphere so as not to exceed an average² release rate of 20 picocuries per square meter per second (pCi/m²s) to the extent practicable throughout the effective design life determined pursuant to (a)(i) of this subsection (this criterion). In computing required tailings cover thicknesses, moisture in soils in excess of amounts found normally in similar soils in similar circumstances may not be considered. Direct gamma exposure from the tailings or wastes should be reduced to background levels. The effects of any thin synthetic layer may not be taken into account in determining the calculated radon exhalation level. If nonsoil materials are proposed as cover materials, it must be demonstrated that these materials will not crack or degrade by differential settlement, weathering, or other mechanism, over long-term intervals.

(b) As soon as reasonably achievable after emplacement of the final cover to limit releases of Radon-222 from uranium by-product material and prior to placement of erosion protection barriers or other features necessary for long-term control of the tailings, the licensees shall verify through appropriate testing and analysis that the design and construction of the final radon barrier is effective in limiting releases of Radon-222 to a level not exceeding 20 pCi/m²s averaged over the entire pile or impoundment using the procedures described in 40 CFR part 61, appendix B, Method 115, or another method of verification approved by the Nuclear Regulatory Commission as being at least as effective in demonstrating the effectiveness of the final radon barrier.

(c) When phased emplacement of the final radon barrier is included in the applicable reclamation plan, the verification

of Radon-222 release rates required in (b) of this subsection (this criterion) must be conducted for each portion of the pile or impoundment as the final radon barrier for that portion is emplaced.

(d) Within ninety days of the completion of all testing and analysis relevant to the required verification in (b) and (c) of this subsection (this criterion), the uranium mill licensee shall report to the department the results detailing the actions taken to verify that levels of release of Radon-222 do not exceed 20 pCi/m²s when averaged over the entire pile or impoundment. The licensee shall maintain records until termination of the license documenting the source of input parameters including the results of all measurements on which they are based, the calculations and/or analytical methods used to derive values for input parameters, and the procedure used to determine compliance. These records shall be kept in a form suitable for transfer to the custodial agency at the time of transfer of the site to DOE or a state for long-term care if requested.

(e) Near surface cover materials (i.e., within the top three meters) may not include waste or rock that contains elevated levels of radium; soils used for near surface cover must be essentially the same, as far as radioactivity is concerned, as that of surrounding surface soils. This is to ensure that surface radon exhalation is not significantly above background because of the cover material itself.

(f) The design requirements in this criterion for longevity and control of radon releases apply to any portion of a licensed and/or disposal site unless such portion contains a concentration of radium in land, averaged over areas of 100 square meters, which, as a result of by-product material, does not exceed the background level by more than:

(i) 5 picocuries per gram (pCi/g) of radium-226, or, in the case of thorium by-product material, radium-228, averaged over the first 15 centimeters (cm) below the surface; and

(ii) 15 pCi/g of radium-226, or, in the case of thorium by-product material, radium-228, averaged over 15-cm thick layers more than 15 cm below the surface.

(g) The licensee shall also address the nonradiological hazards associated with the wastes in planning and implementing closure. The licensee shall ensure that disposal areas are closed in a manner that minimizes the need for further maintenance. To the extent necessary to prevent threats to human health and the environment, the licensee shall control, minimize, or eliminate post-closure escape of nonradiological hazardous constituents, leachate, contaminated rainwater, or waste decomposition products to the ground or surface waters or to the atmosphere.

¹ In the case of thorium by-product materials, the standard applies only to design. Monitoring for radon emissions from thorium by-product materials after installation of an appropriately designed cover is not required.

² This average applies to the entire surface of each disposal area over a period of at least one year, but a period short compared to 100 years. Radon will come from both by-product materials and from covering materials. Radon emissions from covering materials should be estimated as part of developing a closure plan for each site. The standard, however, applies only to emissions from by-product materials to the atmosphere.

Criterion 6A - (a) For impoundments containing uranium by-product materials, the final radon barrier must be completed as expeditiously as practicable considering technological feasibility after the pile or impoundment ceases operation in accordance with a written, department-approved reclamation plan. (The term as expeditiously as practicable considering technological feasibility as specifically defined in WAC 246-252-010 includes factors beyond the control of the licensee.) Deadlines for completion of the final radon barrier and, if applicable, the following interim milestones must be established as a condition of the individual license: Windblown tailings retrieval and placement on the pile and interim stabilization (including dewatering or the removal of freestanding liquids and recontouring). The placement of erosion protection barriers or other features necessary for long-term control of the tailings must also be completed in a timely manner in accordance with a written, approved reclamation plan.

(b) The department may approve a licensee's request to extend the time for performance of milestones related to emplacement of the final radon barrier if, after providing an opportunity for public participation, the department finds that the licensee has adequately demonstrated in the manner required in subsection (6)(b) of this section (Criterion 6) that releases of Radon-222 do not exceed an average of 20 pCi/m²s. If the delay is approved on the basis that the radon releases do not exceed 20 pCi/m²s, a verification of radon levels, as required by subsection (6)(b) of this section (Criterion 6), must be made annually during the period of delay. In addition, once the department has established the date in the reclamation plan for the milestone for completion of the final radon barrier, the department may extend that date based on cost if, after providing an opportunity for public participation, the department finds that the licensee is making good faith efforts to emplace the final radon barrier, the delay is consistent with the definitions of available technology, and the radon releases caused by the delay will not result in a significant incremental risk to the public health.

(c) The department may authorize by license amendment, upon licensee request, a portion of the impoundment to accept uranium by-product material or such materials that are similar in physical, chemical, and radiological characteristics to the uranium mill tailings and associated wastes already in the pile or impoundment from other sources, during the closure process. No such authorization will be made if it results in a delay or impediment to emplacement of the final radon barrier over the remainder of the impoundment in a manner that will achieve levels of Radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. The verification required in subsection (6)(b) of this section (Criterion 6) may be completed with a portion of the impoundment being used for further disposal if the department makes a final finding that the impoundment will continue to achieve a level of Radon-222 releases not exceeding 20 pCi/m²s averaged over the entire impoundment. In this case, after the final radon barrier is complete except for the continuing disposal area:

(i) Only by-product material will be authorized for disposal;

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(ii) The disposal will be limited to the specified existing disposal area; and

(iii) This authorization will only be made after providing opportunity for public participation.

Reclamation of the disposal area, as appropriate, must be completed in a timely manner after disposal operations cease in accordance with subsection (6)(a) of this section (Criterion 6); however, these actions are not required to be complete as part of meeting the deadline for final radon barrier construction.

(7) Criterion 7 - At least one full year prior to any major site construction, a preoperational monitoring program must be conducted to provide complete baseline data on a milling site and its environs. Throughout the construction and operating phases of the mill, an operational monitoring program must be conducted to complete the following:

(a) To measure or evaluate compliance with applicable standards and regulations;

(b) To evaluate performance of control systems and procedures;

(c) To evaluate environmental impacts of operation; and

(d) To detect potential long-term effects.

The licensee shall establish a detection monitoring program needed for the department to set the site-specific groundwater protection standards in Criterion 5 of this section. For all monitoring under this paragraph, the licensee or applicant will propose for department approval as license conditions, which constituents are to be monitored on a site-specific basis. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under Criterion 5. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to Criterion 5, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in ground water continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

(8) Criterion 8 - Milling operations shall be conducted so that all airborne effluent releases are reduced to as low as is reasonably achievable. The primary means of accomplishing this shall be by means of emission controls. Institutional controls, such as extending the site boundary and exclusion area, may be employed to ensure that offsite exposure limits are met, but only after all practicable measures have been taken to control emissions at the source. Notwithstanding the existence of individual dose standards, strict control of emissions is necessary to assure that population exposures are reduced to the maximum extent reasonably achievable and to avoid site contamination. The greatest potential sources of offsite radiation exposure (aside from radon exposure) are dusting from dry surfaces of the tailings disposal area not covered by tailings solution and emissions from yellowcake drying and packaging operations. During operations and prior to closure, radiation doses from radon emissions from surface impoundments shall be kept as low as is reasonably achievable. Checks shall be made and logged hourly of all parameters (e.g., differential pressure and scrubber water flow rate) which determine the efficiency of yellowcake stack emission control equipment operation. It shall be determined whether or not conditions are within a range prescribed to ensure that the equipment is operating consistently near peak efficiency; corrective action shall be taken when performance is outside of prescribed ranges. Effluent control devices shall be operative at all times during drying and packaging operations and whenever air is exhausting from the yellowcake stack.

Drying and packaging operations shall terminate when controls are inoperative. When checks indicate the equipment is not operating within the range prescribed for peak efficiency, actions shall be taken to restore parameters to the prescribed range. When this cannot be done without shutdown and repairs, drying and packaging operations shall cease as soon as practicable.

Operations may not be restarted after cessation due to off-normal performance until needed corrective actions have been identified and implemented. All such cessations, corrective actions, and restarts shall be reported to the department in writing, within ten days of the subsequent restart.

To control dusting from tailings, that portion not covered by standing liquids shall be wetted or chemically stabilized to prevent or minimize blowing and dusting to the maximum extent reasonably achievable. This requirement may be relaxed if tailings are effectively sheltered from wind, such as may be the case where they are disposed of below grade and the tailings surface is not exposed to wind. Consideration shall be given in planning tailings disposal programs to methods which would allow phased covering and reclamation of tailings impoundments since this will help in controlling particulate and radon emissions during operation. To control dustings from diffuse sources, such as tailings and ore pads where automatic controls do not apply, operators shall develop written operating procedures specifying the methods of control which will be utilized.

Milling operations producing or involving thorium by-product material shall be conducted in such a manner as to provide reasonable assurance that the annual dose equivalent does not exceed twenty-five millirems to the whole body, seventy-five millirems to the thyroid, and twenty-five mil-

lires to any other organ of any member of the public as a result of exposures to the planned discharge of radioactive materials, Radon-220 and its daughters excepted, to the general environment.

Uranium and thorium by-product materials shall be managed so as to conform to the applicable provisions of Title 40 of the Code of Federal Regulations, Part 440, Ore Mining and Dressing Point Source Category: Effluent Limitations Guidelines and New Source Performance Standards, Subpart C, Uranium, Radium, and Vanadium Ores Subcategory, as codified on January 1, 1983.

The licensee shall establish a detection monitoring program needed to establish the groundwater protection standards in subsection (5)(f) of this section. A detection monitoring program has two purposes. The initial purpose of the program is to detect leakage of hazardous constituents from the disposal area so that the need to set groundwater protection standards is monitored. If leakage is detected, the second purpose of the program is to generate data and information needed for the department to establish the standards under subsection (5)(f) of this section. The data and information must provide a sufficient basis to identify those hazardous constituents which require concentration limit standards and to enable the department to set the limits for those constituents and the compliance period. They may also need to provide the basis for adjustments to the point of compliance. For licenses in effect September 30, 1983, the detection monitoring programs must have been in place by October 1, 1984. For licenses issued after September 30, 1983, the detection monitoring programs must be in place when specified by the department in orders or license conditions. Once groundwater protection standards have been established pursuant to subsection (5)(f) of this section, the licensee shall establish and implement a compliance monitoring program. The purpose of the compliance monitoring program is to determine that the hazardous constituent concentrations in groundwater continue to comply with the standards set by the department. In conjunction with a corrective action program, the licensee shall establish and implement a corrective action monitoring program. The purpose of the corrective action monitoring program is to demonstrate the effectiveness of the corrective actions. Any monitoring program required by this paragraph may be based on existing monitoring programs to the extent the existing programs can meet the stated objective for the program.

Daily inspections of tailings or waste retention systems must be conducted by a qualified engineer or scientist and documented. The department must be immediately notified of any failure in a tailings or waste retention system which results in a release of tailings or waste into unrestricted areas, and/or of any unusual conditions (conditions not contemplated in the design of the retention system) which if not corrected could indicate the potential or lead to failure of the system and result in a release of tailings or waste into unrestricted areas.

(9) Criterion 9 - (a) Pursuant to chapter 70.121 RCW, and except as otherwise provided, financial surety arrangements for site reclamation and long-term surveillance and control which may consist of surety bonds, cash deposits, certificates of deposit, deposits of government securities,

irrevocable letters or lines of credit, or any combination of the above, or other arrangements approved by the department, milling operations shall be established for source material to ensure the protection of the public health and safety in the event of abandonment, default, or other inability of the licensee to meet the requirements of the act and these regulations.

(i) The amount of funds to be ensured by such surety arrangements shall be based on department-approved cost estimates.

(ii) Self-insurance, or any arrangement which essentially constitutes self-insurance (e.g., a contract with a state or federal agency), will not satisfy the surety requirement, since this provides no additional assurance other than that which already exists through license requirements.

(b) The arrangements required in (a) of this subsection shall be established prior to commencement of operations to assure that sufficient funds will be available to carry out decontamination and decommissioning of the facility.

(c) Amendments to licenses in effect on the effective date of this regulation may be issued, providing that the required surety arrangements are established within ninety days after the effective date of this subsection.

(d) For source material milling operations, the amount of funds to be ensured by such surety arrangements shall be based on department-approved cost estimates in an approved plan for (i) decontamination and decommissioning of mill buildings and the milling site to levels which would allow unrestricted use of these areas upon decommissioning, and (ii) the reclamation of tailings and/or waste disposal areas in accordance with the technical criteria delineated in this section. The licensee shall submit this plan in conjunction with an environmental report that addresses the expected environmental impacts of the milling operation, decommissioning and tailings reclamation, and evaluates alternatives for mitigating these impacts. In addition, the surety shall cover the payment of the charge for long-term surveillance and control required by the department. In establishing specific surety arrangements, the licensee's cost estimates shall take into account total costs that would be incurred if an independent contractor were hired to perform the decommissioning and reclamation work. In order to avoid unnecessary duplication and expense, the department may accept financial sureties that have been consolidated with financial or surety arrangements established to meet requirements of other federal or state agencies and/or local governing bodies for such decommissioning, decontamination, reclamation, and long-term site surveillance, provided such arrangements are considered adequate to satisfy these requirements and that portion of the surety which covers the decommissioning and reclamation of the mill, mill tailings site and associated areas, and the long-term funding charge is clearly identified and committed for use in accomplishing these activities. The licensee's surety mechanism will be reviewed annually by the department to assure that sufficient funds will be available for completion of the reclamation plan if the work had to be performed by an independent contractor. The amount of surety liability should be adjusted to recognize any increases or decreases resulting from inflation, changes in engineering plans, activities performed, and any other conditions affecting costs. Regardless

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of whether reclamation is phased through the life of the operation or takes place at the end of operations, an appropriate portion of surety liability shall be retained until final compliance with the reclamation plan is determined. This will yield a surety that is at least sufficient at all times to cover the costs of decommissioning and reclamation of the areas that are expected to be disturbed before the next license renewal. The term of the surety mechanism must be open ended, unless it can be demonstrated that another arrangement would provide an equivalent level of assurance. This assurance could be provided with a surety instrument which is written for a specific period of time (e.g., five years), yet which must be automatically renewed unless the surety notifies the beneficiary (the state regulatory agency) and the principal (the licensee) some reasonable time (e.g., ninety days) prior to the renewal date of their intention not to renew. In such a situation, the surety requirement still exists and the licensee would be required to submit an acceptable replacement surety within a brief period of time to allow at least sixty days for the department to collect.

Proof of forfeiture must not be necessary to collect the surety so that in the event that the licensee could not provide an acceptable replacement surety within the required time, the surety shall be automatically collected prior to its expiration. The conditions described above would have to be clearly stated on any surety instrument which is not open-ended and must be agreed to by all parties.

Long-term care requirements. Pursuant to chapter 70.121 RCW, and as otherwise provided in WAC ((246-235-080-(6)(d))) 246-235-086(4), a long-term care trust fund shall be established by source material milling licensees prior to the issuance of the license.

(10) Criterion 10 - (a) A minimum charge of two hundred fifty thousand dollars (1978 United States dollars) accrued as specified in WAC ((246-235-080-(6)(d))) 246-235-086(4) to cover the costs of long-term surveillance shall be paid by each mill operator to the agency prior to the termination of a uranium or thorium mill license. If site surveillance or control requirements at a particular site are determined, on the basis of a site-specific evaluation, to be significantly greater than those specified in (a) of this subsection (e.g., if fencing is determined to be necessary), variance in funding requirements may be specified by the department. The total charge to cover the costs of long-term surveillance shall be such that, with an assumed one percent annual real interest rate, the collected funds will yield interest in an amount sufficient to cover the annual costs of site surveillance. The charge will be adjusted annually prior to actual payments to recognize inflation. The inflation rate to be used is that indicated by the change in the consumer price index published by the United States Department of Labor, Bureau of Labor Statistics. Contributions by a licensee to the long-term care trust fund pursuant to chapter 70.121 RCW shall be transferred to cover the costs assessed under this criterion.

(11) Criterion 11 - These criteria relating to ownership of tailings and their disposal sites become effective on November 8, 1981, and apply to all licenses terminated, issued, or renewed after that date.

Any uranium or thorium milling license or tailings license shall contain such terms and conditions as the United

States Nuclear Regulatory Commission determines necessary to assure that prior to termination of the license, the licensee will comply with ownership requirements of this criterion for sites used for tailings disposal.

Title to the by-product material licensed pursuant to WAC 246-252-030 and land, including any interests therein (other than land owned by the United States or by the state of Washington) which is used for the disposal of any such by-product material, or is essential to ensure the long-term stability of such disposal site, shall be transferred to the United States or the state of Washington. In view of the fact that physical isolation must be the primary means of long-term control, and government land ownership is a desirable supplementary measure, ownership of certain severable subsurface interests (for example, mineral rights) may be determined to be unnecessary to protect the public health and safety and the environment. In any case, the applicant/operator must demonstrate a serious effort to obtain such subsurface rights, and must, in the event that certain rights cannot be obtained, provide notification in local public land records of the fact that the land is being used for the disposal of radioactive material and is subject to either a United States Nuclear Regulatory Commission general or specific license prohibiting the disruption and disturbance of the tailings. In some rare cases, such as may occur with deep burial where no ongoing site surveillance will be required, surface land ownership transfer requirements may be waived. For licenses issued before November 8, 1981, the United States Nuclear Regulatory Commission may take into account the status of the ownership of such land, and interests therein, and the ability of a licensee to transfer title and custody thereof to the United States or the state. If the United States Nuclear Regulatory Commission, subsequent to title transfer, determines that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a state will not endanger the public health, safety, welfare or environment, the United States Nuclear Regulatory Commission may permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions provided in these criteria. If the United States Nuclear Regulatory Commission permits such use of such land, it will provide the person who transferred such land with the right of first refusal with respect to such use of such land.

Material and land transferred to the United States or a state in accordance with this criterion must be transferred without cost to the United States or a state other than administrative and legal costs incurred in carrying out such transfer.

The provisions of this part, respecting transfer of title and custody to land and tailings and wastes, do not apply in the case of lands held in trust by the United States for any Indian tribe, or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of by-product material, as defined in this section, the licensee shall enter into arrangements with the United States Nuclear Regulatory Commission as may be appropriate to assure the long-term surveillance of such lands by the United States.

(12) Criterion 12 - The final disposition of tailings or wastes at milling sites should be such that ongoing active maintenance is not necessary to preserve isolation. As a min-

imum, annual site inspections must be conducted by the government agency retaining ultimate custody of the site where tailings or wastes are stored, to confirm the integrity of the stabilized tailings or waste systems, and to determine the need, if any, for maintenance and/or monitoring. Results of the inspection must be reported to the United States Nuclear Regulatory Commission within sixty days following each inspection. The United States Nuclear Regulatory Commission may require more frequent site inspections if, on the basis of a site-specific evaluation, such a need appears necessary, due to the features of a particular tailings or waste disposal system.

(13) Criterion 13 - Secondary groundwater protection standards required by Criterion 5 of this section are concentration limits for individual hazardous constituents. The list of constituents found in Appendix A of this chapter, chapter 246-252 WAC, identifies the constituents for which standards must be set and complied with if the specific constituent is reasonably expected to be in or derived from the by-product material and has been detected in groundwater. For purposes of this criterion, the property of gross alpha activity will be treated as if it is a hazardous constituent. Thus, when setting standards under subsection (5)(j) of this section, the department will also set a limit for gross alpha activity.

WSR 00-04-090
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 99-6—Filed February 2, 2000, 9:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-13-197.

Title of Rule: The valuation of life insurance policies regulation. This regulation is also known as "Triple X" or "XXX."

Purpose: The purpose of the model regulation is to provide a better method of ensuring adequate and realistic reserves for life insurance policies.

Statutory Authority for Adoption: RCW 48.02.060 and 48.74.030.

Statute Being Implemented: RCW 48.74.040, 48.74.070, and 48.74.080.

Summary: The model regulation includes tables of select mortality factors and rules for their use; rules concerning a minimum standard for valuation of plans with nonlevel premiums or benefits; and rules concerning a minimum standard for the valuation of plans with secondary guarantees.

Reasons Supporting Proposal: The regulation will provide a level playing between life insurers and between domestic companies and companies domiciled elsewhere. The better reserving practices will increase company solvency and consumer confidence. Over time it may lead to lower rates.

Name of Agency Personnel Responsible for Drafting and Implementation: Roy Olson, Olympia, Washington,

(360) 753-7305; and Enforcement: Bethany Weidner, Olympia, Washington, (360) 664-8137.

Name of Proponent: Deborah Senn, Insurance Commissioner, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: In 1999, the National Association of Insurance Commissioners (NAIC) adopted a model regulation on the valuation of life insurance policies. This model regulation is also known as "Triple X." The purpose of the model regulation is to provide a better method of ensuring adequate and realistic reserves for life insurance policies. Reserves are the funds set aside by the insurer for payment of claims.

The model regulation includes: Tables of select mortality factors and rules for their use; rules concerning a minimum standard for valuation of plans with nonlevel premiums or benefits; and rules concerning a minimum standard for the valuation of plans with secondary guarantees.

The proposed rule implements the model regulation and includes additional provisions for disclosure, and a rewording of terms for clarity and consistency to more closely tie the regulation to the underlying intent and wording of Washington law.

Proposal does not change existing rules.

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

Small Business Economic Impact Statement

Overview: In 1999, the National Association of Insurance Commissioners (NAIC) adopted a model regulation on the valuation of life insurance policies. This model regulation is also known as "Triple X." The purpose of the model regulation is to provide a better method of ensuring adequate and realistic reserves for life insurance policies. Reserves are the funds set aside by the insurer for payment of claims.

The model regulation includes: Tables of select mortality factors and rules for their use; rules concerning a minimum standard for valuation of plans with nonlevel premiums or benefits; and rules concerning a minimum standard for the valuation of plans with secondary guarantees.

The proposed rule implements the model regulation and includes additional provisions for disclosure, and a rewording of terms for clarity and consistency to more closely tie the regulation to the underlying intent and wording of Washington law.

Is the rule required by federal law or federal regulation? No. Federal law or regulation does not require this rule.

What industry is affected by the proposed rule? The industry code that would be affected by the proposed rule is #6311, Life Insurance Companies.

List the specific parts of the proposed rule that may impose a cost to business: Modifying the existing reserve standards, WAC 284-74-340.

What will be the compliance costs for industries affected? See above. Carriers estimate the costs of modifying reserve standards at anywhere from no additional costs, to \$15,000 (considered minimal by industry standards). It is

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important to note that if the company is currently offering life insurance policies in a state that has already adopted a version of the NAIC Triple X Model, the reserve modifications would have already been made. Therefore, no additional costs would be incurred. The model regulation is being adopted by an ever-increasing number of states. Domiciled companies would be at a competitive disadvantage with non-domiciled companies if the rule were not implemented in Washington.

The underlying basis for this regulation is to ensure that life insurers maintain adequate reserves for life insurance policies. While some companies may face initial compliance costs, the regulation will ensure that the industry has adequate funds to pay claims. This will save taxpayer money in the reduction of possible insolvencies over time.

What percentage of the industries in the four-digit standard industrial classification will be affected by the rule? The proposed rule would affect 100% of the life insurance companies that offer life insurance plans subject to regulation by the insurance commissioner.

Will the rule impose a disproportionately higher economic burden on small businesses within the four-digit classification? No. The proposed rule will not impose a disproportionately higher economic burden on smaller companies. If anything, the rule will place a slightly higher proportional cost on the larger businesses which offer a wider variety of life insurance plans.

Can mitigation be used to reduce the economic impact of the rule on small businesses and still meet the objectives of the proposed rule? The rule does not include any mitigatory tactics to reduce the already minimal anticipated costs to small business. The commissioner encourages any suggestions that can accomplish the goals in a more cost-efficient manner and encourages dialogue with all carriers.

What steps will the commissioner take to reduce the costs of the rule on small businesses? See above.

Which mitigation techniques have been considered and incorporated into the proposed rule? The rule making itself stems from a desire to create more effective and fairer reserve standards. It is a result of industry request to create uniform reserve requirements and will allow for simpler administration for life insurers.

Which mitigation techniques were considered for incorporation into the proposed rule but were rejected, and why? No mitigation techniques were considered for incorporation, and then rejected.

Briefly describe the reporting, recordkeeping, and other compliance requirements of the proposed rule: There are no new reporting or record-keeping requirements as a result of this rule.

List the kinds of professional services that a small business is likely to need in order to comply with the reporting, recordkeeping, and other compliance requirements of the proposed rule: A small business is not likely to need any additional professional services because of the proposed rule. There will be a shift in reserve requirements but it is expected that life insurers can do this with current

personnel in the ordinary course of business. The commissioner will seek to provide whatever technical assistance is necessary to enable the smaller companies to understand and implement the rule.

Analyze the cost of compliance including, specifically:

Cost of equipment: There is no anticipated additional cost of equipment.

Cost of supplies: There is no anticipated additional cost of supplies.

Cost of labor: There is no additional labor costs anticipated as a result of the rule.

Cost of increased administration: Changing reserve standards, estimated by respondents to our economic questionnaire, as anywhere from no additional costs to approximately \$15,000.

Compare the cost of compliance for small business with the cost of compliance for the largest business in the same four-digit classification: The cost of compliance should be proportional for small businesses. There should be no proportional differences in costs of equipment, supplies, labor, or administration. Larger companies with more life insurance plans may have slightly higher costs for administration.

Have businesses that will be affected been asked what the economic impact will be? Yes, a questionnaire regarding the economic impact aspects of the rule was sent to a cross-section of life insurance companies that provide life insurance in the state of Washington. Comments were received from each, and are reflected in this report.

How did the commissioner involve small business in the development of the proposed rule? See above. The drafters will discuss the proposed rules with any industry representatives or interested parties, including representatives of small businesses, as the rule-making process continues.

How and when were affected small businesses advised of the proposed rule? The CR-101 for this rule was filed on July 23, 1999. It was mailed to interested parties and all life insurers. It was also posted on the commissioner's website.

A copy of the statement may be obtained by writing to Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, e-mail Kacyb@oic.wa.gov, phone (360) 664-3784, fax (360) 664-2782.

RCW 34.05.328 applies to this rule adoption. The proposed rules are rules "other than a procedural or interpretive rule that (a) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (b) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (c) adopts a new, or makes significant amendments to, a policy or regulatory program."

Hearing Location: General Administration Building, 1st Floor Auditorium, 11th and Columbia, Olympia, Washington, on March 8, 2000, at 10:00.

Assistance for Persons with Disabilities: Contact Lori Villaflores by March 6, 2000, TDD (360) 407-0409.

Submit Written Comments to: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, e-mail Kacyb@oic.wa.gov, fax (360) 664-2782, by March 7, 2000.

Date of Intended Adoption: March 9, 2000.

February 2, 2000

Robert Harkins

Chief Deputy Commissioner

NEW SECTION

WAC 284-74-300 Purpose. (1) The purpose of this regulation, WAC 284-74-300 through 284-74-380 is to provide:

(a) Tables of select mortality factors and rules for their use;

(b) Rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and

(c) Rules concerning a minimum standard for the valuation of plans with secondary guarantees.

(2) The method for calculating reserves defined in this regulation will constitute the commissioner's reserve valuation method for policies to which this regulation is applicable.

NEW SECTION

WAC 284-74-310 Authority. This regulation is issued under the authority of RCW 48.02.060(3), 48.12.030(3), 48.74.040(1), 48.74.080 and 48.74.030 (1)(a)(iii).

NEW SECTION

WAC 284-74-320 Applicability. This regulation shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after the operative date of this regulation, subject to the following exceptions and conditions.

(1)(a) This regulation shall not apply to any individual life insurance policy issued on or after the operative date of this regulation if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before the operative date of this regulation, that guarantees the premium rates of the new policy. This regulation also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

(b) This regulation shall not apply to any universal life insurance policy that meets all the following requirements:

(i) The secondary guarantee period, if any, is five years or less;

(ii) The specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the 1980 CSO valuation tables as defined in WAC 284-74-330(6) and the applicable valuation interest rate; and

(iii) The initial surrender charge is not less than one hundred percent of the first year annualized specified premium for the secondary guarantee period.

(c) This regulation shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

(d) This regulation shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.

(e) This regulation shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

(2)(a) Calculation of the minimum valuation standard for policies with gross premiums subject to a nonlevel guaranteed maximum or with benefits subject to a nonlevel guaranteed minimum (other than universal life policies), or both, shall be in accordance with the provisions of WAC 284-74-350.

(b) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period, shall be in accordance with the provisions of WAC 284-74-360.

NEW SECTION

WAC 284-74-330 Definitions. For purposes of this regulation:

(1) "Basic reserves" means reserves calculated in accordance with RCW 48.74.040(1).

(2) "Contract segmentation method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in subsection (6) of this section (or any other valuation mortality table adopted by the National Association of Insurance Commissioners (NAIC) after the operative date of this regulation and promulgated by regulation by the commissioner for this purpose), and, if elected for the plan, the optional minimum mortality standard for deficiency reserves stipulated in WAC 284-74-340(2).

The length of a particular contract segment shall be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t , the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

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$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

- x = original issue age;
- k = the number of years from the date of issue to the beginning of the segment;
- t = 1, 2, ...; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed maximum gross premium per thousand of face amount for year t of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$$

However, R_t may be increased or decreased by one percent in any policy year, at the company's option, but R_t shall not be less than one;

where:

x, k and t are as defined above, and

$q_{x+k+t-1}$ = valuation mortality rate for deficiency reserves in policy year k+t but using the mortality of WAC 284-74-340 (2)(b) if WAC 284-74-340 (2)(c) is elected for deficiency reserves.

However, if GP_{x+k+t} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t shall be deemed to be 0.

(3) "Deficiency reserves" means the excess, if greater than zero, of

(a) Minimum reserves calculated in accordance with RCW 48.74.070 over

(b) Basic reserves.

(4) "Guaranteed maximum gross premiums" means the premiums guaranteed and determined at issue that the actual gross premiums under a policy of life insurance cannot exceed.

(5) "Maximum valuation interest rates" means the interest rates defined in RCW 48.74.030(3) that are to be used in determining the minimum standard for the valuation of life insurance policies.

(6) "1980 CSO valuation tables" means the commissioners 1980 standard ordinary mortality table (1980 CSO table) without ten-year select mortality factors, incorporated into the 1980 amendments to the NAIC model standard valuation law, and variations of the 1980 CSO table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

(7) "Scheduled gross premium" means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in WAC 284-74-360 (1)(c), if any, or else the minimum premium described in WAC 284-74-360 (1)(d).

(8)(a) "Segmented reserves" means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed maximum gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

(i) The present value of the death benefits within the segment, plus

(ii) The present value of any unusual guaranteed cash value (see WAC 284-74-350(4)) occurring at the end of the segment, less

(iii) Any unusual guaranteed cash value occurring at the start of the segment, plus

(iv) For the first segment only, the excess of the item (A) over item (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

(B) A net one year term premium for the benefits provided for in the first policy year.

(b) The length of each segment is determined by the contract segmentation method, as defined in this section.

(c) The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.

(d) For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

(9) "Tabular cost of insurance" means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

(10) "Ten-year select mortality factors" means the select factors adopted with the 1980 amendments to the NAIC standard valuation law.

(11)(a) "Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

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(i) Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and

(ii) Modified net premiums are a uniform percentage of the respective guaranteed maximum gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of item (A) over item (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

(B) A net one year term premium for the benefits provided for in the first policy year.

(b) The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

(12) "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

NEW SECTION

WAC 284-74-340 General calculation requirements for basic reserves and premium deficiency reserves. (1) At the election of the company for any one or more specified plans of life insurance, the minimum valuation standard of mortality under RCW 48.74.030(1) for basic reserves may be calculated using the 1980 CSO mortality table with select mortality factors (or any other valuation mortality table adopted by the NAIC after the operative date of this regulation and promulgated by regulation by the commissioner for this purpose). If select mortality factors are elected, they may be:

(a) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC standard valuation law;

(b) The select mortality factors in WAC 284-74-380; or

(c) Any other table of select mortality factors adopted by the NAIC after the operative date of this regulation and promulgated by regulation by the commissioner for the purpose of calculating basic reserves.

(2) Deficiency reserves, if any, are calculated under RCW 48.74.070 for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using the minimum valuation standards of mortality under RCW 48.74.030(1) and rate of interest under RCW 48.74.030(3), and replacing the net premium by the gross

premium in each contract year the actual gross premium is less than the corresponding net premium. The gross premiums shall be the maximum gross premiums guaranteed on the valuation date.

The quantity A and the corresponding net premiums used in the determination of quantity A shall be based upon the minimum valuation standard of mortality under subsection (1) of this section for basic reserves: Provided, That at the election of the company for any one or more specified plans of life insurance, the quantity A and the corresponding net premiums used in the determination of the quantity A may be based upon the 1980 CSO mortality table with select mortality factors (or any other valuation mortality table adopted by the NAIC after the operative date of this regulation and promulgated by regulation by the commissioner). If select mortality factors are elected, they may be:

(a) The ten-year select mortality factors incorporated into the 1980 amendments to the NAIC standard valuation law;

(b) The select mortality factors in WAC 284-74-380;

(c) Subject to the conditions in subsection (3) of this section, X percent of the select mortality factors in WAC 284-74-380; or

(d) Any other table of select mortality factors adopted by the NAIC after the operative date of this regulation and promulgated by regulation by the commissioner for the purpose of calculating deficiency reserves.

(3) If X percent of the select mortality factors in WAC 284-74-380 is elected under subsection (2)(c) of this section, then that election is subject to the following conditions:

(a) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

(b) X shall not be less than twenty percent;

(c) X shall not decrease in any successive policy years;

(d) Using the valuation interest rate for basic reserves, subparagraph (i) is greater than or equal to subparagraph (ii);

(i) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

(ii) The actuarial present value of future death benefits, calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

(e) The mortality rates resulting from the application of X are at least as great as anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five years after the valuation date;

(f) The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of this subsection (3);

(g) The appointed actuary may decrease X at any valuation date as long as X does not decrease in any successive policy years and as long as it continues to meet all the requirements of this subsection (3); and

(h) The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

(i) If X is less than one hundred percent at any duration for any policy, the following requirements shall be met:

(i) The appointed actuary shall annually prepare an actuarial opinion and memorandum in conformance with the requirements of WAC 284-07-380 through 284-07-400; and

(ii) The appointed actuary shall annually opine for all policies subject to this regulation as to whether the mortality rates resulting from the application of X meet the requirements of this subsection (3). This opinion shall be included with or attached to the company's annual statement, and shall disclose the lowest X factor used for any policy on the valuation date. This opinion shall be supported by an actuarial report, subject to appropriate actuarial standards of practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

(4) This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten years, the appropriate ten-year select mortality factors incorporated into the 1980 amendments to the NAIC standard valuation law may be used thereafter through the tenth policy year from the date of issue.

(5) In determining basic reserves or deficiency reserves, guaranteed maximum gross premiums without policy fees may be used where the calculation involves the guaranteed maximum gross premium but only if the policy fee is specified in the policy and is a level dollar amount for the entire premium paying period of the policy. In determining deficiency reserves, policy fees may be included in guaranteed maximum gross premiums, even if not included in the actual calculation of basic reserves.

(6) Reserves for policies under which the insurer has changed its guarantees after issue with respect to gross premiums, benefits, charges, or credits, with the new guarantees effective for more than one year after the date of the change, shall be the greatest of the following:

(a) Reserves calculated ignoring the change;

(b) Reserves assuming the guarantee was made at issue; and

(c) Reserves assuming that the policy was issued on the date of the guarantee.

(7) The commissioner may require that the company document the extent of the adequacy of reserves for specified blocks, including, but not limited to, policies issued prior to the operative date of this regulation. This documentation may include a demonstration of the extent to which aggregation with other nonspecified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of WAC 284-07-380 and 284-07-400.

NEW SECTION

WAC 284-74-350 Calculation of minimum valuation standard for policies with nonlevel guaranteed maximum gross premiums or nonlevel guaranteed minimum benefits (other than universal life policies). (1) Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and select mortality factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described in (a) or (b) of this subsection may be made:

(a) Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(b) Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(2)(a) The deficiency reserve at any duration shall be calculated:

(i) On a unitary basis if the corresponding basic reserve determined by subsection (1) of this section is unitary;

(ii) On a segmented basis if the corresponding basic reserve determined by subsection (1) of this section is segmented; or

(iii) On the segmented basis if the corresponding basic reserve determined by subsection (1) of this section is equal to both the segmented reserve and the unitary reserve.

(b) This subsection shall apply to any policy for which the guaranteed maximum gross premium or actual gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in WAC 284-074-340(2)) and rate of interest.

(c) Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in WAC 284-74-340(2).

(d) For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

(3) Basic reserves may not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves may not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if midterminal reserves are used. The tabular cost of insurance shall use the same valuation mortality table and interest rates as those used for the calculation of the segmented reserves. However, if select mortality factors are used, they shall be the ten-year select mortality factors incorporated into the 1980 amendments to the NAIC standard val-

uation law. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policy owner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

(4)(a) For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

(b) The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where:

(i) n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

(A) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or
(B) The mandatory expiration date of the policy; and

(ii) The net premium for a given year during the n year period is equal to the product of the net to gross ratio and the respective gross premium; and

(iii) The net to gross ratio is equal to item (A) divided by item (B) as follows:

(A) The present value, at the beginning of the n year period, of death benefits payable during the n year period plus the present value, at the beginning of the n year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n year period.

(B) The present value, at the beginning of the n year period, of the scheduled gross premiums payable during the n year period.

(c) For purposes of this subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

(i) One hundred ten percent of the scheduled gross premium for that year;

(ii) One hundred ten percent of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

(iii) Five percent of the first policy year surrender charge, if any.

(5) At the option of the company, the following approach for reserves on yearly renewal term reinsurance may be used:

(a) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

(b) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection (3) of this section.

(c) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective guaranteed maximum gross premium.

(d) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with (c) of this subsection.

(e) For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality table with or without ten-year select mortality factors, or any other table adopted after the operative date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose.

(f) A reinsurance agreement shall be considered yearly renewable term reinsurance for purposes of this subsection if only the mortality risk is reinsured.

(g) If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

(6) At the option of the company, the following approach for reserves for attained-age-based yearly renewable term life insurance policies may be used:

(a) Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

(b) Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in subsection (3) of this section.

(c) For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective guaranteed maximum gross premium.

(d) Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with (c) of this subsection.

(e) For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten-year select mortality factors, or any other table adopted after the operative date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose.

(f) A policy shall be considered an attained-age-based yearly renewable term life insurance policy for purposes of this subsection if:

(i) The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

(ii) The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all

insureds of the same sex, risk class, plan of insurance and attained age.

(g) For policies that become attained-age-based yearly renewable term policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

(i) The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or

(ii) The initial period runs to a common attained age for all insureds of the same sex, risk class and plan of insurance; and

(iii) After the initial period of coverage, the policy meets the conditions of (f) of this subsection.

(h) If this election is made, this approach shall be applied in determining reserves for all attained-age-based yearly renewable term life insurance policies issued on or after the operative date of this regulation.

(7) Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

(a) The policy consists of a series of n-year periods, including the first period and all renewal periods, where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age: Provided, That this final renewal period is less than ten years and less than twice the size of the earlier n-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

(b) The guaranteed maximum gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO mortality table with or without the ten-year select mortality factors; and

(c) There are no cash surrender values in any policy year.

(8) Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

(a) At issue, the insured is age twenty-four or younger;

(b) Until the insured reaches the end of the juvenile period, which shall occur at or before age twenty-five, the gross premiums and death benefits are level, and there are no cash surrender values; and

(c) After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

NEW SECTION

WAC 284-74-360 Calculation of minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policy owner to keep a policy in force over a secondary guarantee period. (1)(a) Policies with a secondary guarantee include:

(i) A policy with a guarantee that the policy will remain in force at the original schedule of benefits over a specified

period of time, subject only to the payment of specified premiums;

(ii) A policy in which the minimum premium at any duration is less than the corresponding one year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten-year select mortality factors, or any other table adopted after the operative date of this regulation by the NAIC and promulgated by regulation by the commissioner for this purpose; or

(iii) A policy with any combination of (a)(i) and (ii) of this subsection.

(b) Secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue. Reserves described in subsections (2) and (3) of this section shall be recalculated from issue to reflect these changes.

(c) Specified premiums mean the premiums specified by the insurer, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

(d) For purposes of this section, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue.

(e) The one-year valuation premium means the net one-year premium based upon the original schedule of benefits for a given policy year. The one-year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in WAC 284-74-340 (2)(b), (c) and (d) may not be used to calculate the one-year valuation premiums.

(f) The one-year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

(2) Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in WAC 284-74-330(2).

(3) Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in WAC 284-74-350(2) with gross premiums set equal to the specified premiums, if any,

or otherwise to the minimum premiums that keep the policy in force.

(4) The minimum reserves during the secondary guarantee period are the greater of:

(a) The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

(b) The minimum reserves required by other statutory provisions, rules or regulations governing universal life plans.

NEW SECTION

WAC 284-74-370 Operative date. On or after the effective date of this regulation, the company to whose policies this regulation applies may elect January 1, 2000, as its operative date. If the company makes no such election, this regulation shall become operative on its effective date.

NEW SECTION

WAC 284-74-380 Select mortality factors. This section contains the tables of select mortality factors to which WAC 284-74-340 (1)(b), (2)(b) and (c) refer. The factors in this section are percentages to be applied to the 1980 CSO valuation tables.

The six tables of select mortality factors contained herein include:

- (1) Male composite;
- (2) Male nonsmoker;
- (3) Male smoker;
- (4) Female composite;
- (5) Female nonsmoker; and
- (6) Female smoker.

The same factors apply to both age last birthday and age nearest birthday mortality tables.

PROPOSED

(1) The select mortality factors for male composite are as shown in the table below:

Male Composite - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	96	98	98	99	99	100	100	90	92	92	92	92	93	93	96	97	98	98	99	100
19	83	84	84	87	87	87	79	79	79	81	81	82	82	82	85	88	91	94	97	100
20	69	71	71	74	74	69	69	67	69	70	71	71	71	71	74	79	84	90	95	100
21	66	68	69	71	66	66	67	66	67	70	70	70	70	71	71	77	83	88	94	100
22	65	66	66	63	63	64	64	64	65	68	68	68	68	69	71	77	83	88	94	100
23	62	63	59	60	62	62	63	63	64	65	65	67	67	69	70	76	82	88	94	100
24	60	56	56	59	59	60	61	61	61	64	64	64	66	67	70	76	82	88	94	100
25	52	53	55	56	58	58	60	60	60	63	62	63	64	67	69	75	81	88	94	100
26	51	52	55	56	58	58	57	61	61	62	63	64	66	69	66	73	80	86	93	100
27	51	52	55	57	58	60	61	61	60	63	63	64	67	66	67	74	80	87	93	100
28	49	51	56	58	60	60	61	62	62	63	64	66	65	66	68	74	81	87	94	100
29	49	51	56	58	60	61	62	62	62	64	64	62	66	67	70	76	82	88	94	100
30	49	50	56	58	60	60	62	63	63	64	62	63	67	68	71	77	83	88	94	100
31	47	50	56	58	60	62	63	64	64	62	63	66	68	70	72	78	83	89	94	100
32	46	49	56	59	60	62	63	66	62	63	66	67	70	72	73	78	84	89	95	100
33	43	49	56	59	62	63	64	62	65	66	67	70	72	73	75	80	85	90	95	100
34	42	47	56	60	62	63	61	63	66	67	70	71	73	75	76	81	86	90	95	100
35	40	47	56	60	63	61	62	65	67	68	71	73	74	76	76	81	86	90	95	100
36	38	42	56	60	59	61	63	65	67	68	70	72	74	76	77	82	86	91	95	100
37	38	45	56	57	61	62	63	65	67	68	70	72	74	76	76	81	86	90	95	100
38	37	44	53	58	61	62	65	66	67	69	69	73	75	76	77	82	86	91	95	100
39	37	41	53	58	62	63	65	65	66	68	69	72	74	76	76	81	86	90	95	100
40	34	40	53	58	62	63	65	65	66	68	68	71	75	76	77	82	86	91	95	100

Male Composite - Select Mortality Factors

Issue

Duration

Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
41	34	41	53	58	62	63	65	64	64	66	68	70	74	76	77	82	86	91	95	100
42	34	43	53	58	61	62	63	63	63	64	66	69	72	75	77	82	86	91	95	100
43	34	43	54	59	60	61	63	62	62	64	66	67	72	74	77	82	86	91	95	100
44	34	44	54	58	59	60	61	60	61	62	64	67	71	74	77	82	86	91	95	100
45	34	45	53	58	59	60	60	60	59	60	63	66	71	74	77	82	86	91	95	100
46	31	43	52	56	57	58	59	59	59	60	63	67	71	74	75	80	85	90	95	100
47	32	42	50	53	55	56	57	58	59	60	65	68	71	74	75	80	85	90	95	100
48	32	41	47	52	54	56	57	57	57	61	65	68	72	73	74	79	84	90	95	100
49	30	40	46	49	52	54	55	56	57	61	66	69	72	73	74	79	84	90	95	100
50	30	38	44	47	51	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100
51	28	37	42	46	49	53	54	56	57	61	66	71	72	73	75	80	85	90	95	100
52	28	35	41	45	49	51	54	56	57	61	66	71	72	74	75	80	85	90	100	100
53	27	35	39	44	48	51	53	55	57	61	67	71	74	75	76	81	86	100	100	100
54	27	33	38	44	48	50	53	55	57	61	67	72	74	75	76	81	100	100	100	100
55	25	32	37	43	47	50	53	55	57	61	68	72	74	75	78	100	100	100	100	100
56	25	32	37	43	47	49	51	54	56	61	67	70	73	74	100	100	100	100	100	100
57	24	31	38	43	47	49	51	54	56	59	66	69	72	100	100	100	100	100	100	100
58	24	31	38	43	48	48	50	53	56	59	64	67	100	100	100	100	100	100	100	100
59	23	30	39	43	48	48	51	53	55	58	63	100	100	100	100	100	100	100	100	100
60	23	30	39	43	48	47	50	52	53	57	100	100	100	100	100	100	100	100	100	100
61	23	30	39	43	49	49	50	52	53	75	100	100	100	100	100	100	100	100	100	100
62	23	30	39	44	49	49	51	52	75	75	100	100	100	100	100	100	100	100	100	100
63	22	30	39	45	50	50	52	75	75	75	100	100	100	100	100	100	100	100	100	100
64	22	30	39	45	50	51	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	22	30	39	45	50	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	22	30	39	45	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	22	30	39	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	23	32	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	23	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

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Proposed

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PROPOSED

Male Composite - Select Mortality Factors

Issue

Duration

Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

(2) The select mortality factors for male nonsmoker are as shown in the table below:

Male Nonsmoker - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	93	95	96	98	99	100	100	90	92	92	92	92	95	95	96	97	98	98	99	100
19	80	81	83	86	87	87	79	79	79	81	81	82	83	83	86	89	92	94	97	100
20	65	68	69	72	74	69	69	67	69	70	71	71	72	72	75	80	85	90	95	100
21	63	66	68	71	66	66	67	66	67	70	70	70	71	71	73	78	84	89	95	100
22	62	65	66	62	63	64	64	64	67	68	68	68	70	70	73	78	84	89	95	100
23	60	62	58	60	62	62	63	63	64	67	68	68	67	69	71	77	83	88	94	100
24	59	55	56	58	59	60	61	61	63	65	67	66	66	69	71	77	83	88	94	100
25	52	53	55	56	58	58	60	60	61	64	64	64	64	67	70	76	82	88	94	100
26	51	53	55	56	58	60	61	61	61	63	64	64	66	69	67	74	80	87	93	100
27	51	52	55	58	60	60	61	61	62	63	64	66	66	67	67	74	80	87	93	100
28	49	52	57	58	60	61	63	62	62	64	66	66	63	66	68	74	81	87	94	100
29	49	51	57	60	61	61	62	62	63	64	66	63	65	67	68	74	81	87	94	100
30	49	51	57	60	61	62	63	63	63	64	62	63	66	68	70	76	82	88	94	100
31	47	50	57	60	60	62	63	64	64	62	63	65	67	70	71	77	83	88	94	100
32	46	50	57	60	62	63	64	64	62	63	65	66	68	71	72	78	83	89	94	100
33	45	49	56	60	62	63	64	62	63	65	66	68	71	73	74	79	84	90	95	100
34	43	48	56	62	63	64	62	62	65	66	67	70	72	74	74	79	84	90	95	100
35	41	47	56	62	63	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
36	40	47	56	62	59	61	62	63	66	67	68	70	72	74	75	80	85	90	95	100
37	38	45	56	58	59	61	62	63	66	67	67	69	71	73	74	79	84	90	95	100
38	38	45	53	58	61	62	63	65	65	67	68	70	72	74	73	78	84	89	95	100
39	37	41	53	58	61	62	63	64	65	67	68	70	71	73	73	78	84	89	95	100
40	34	41	53	58	61	62	63	64	64	66	67	69	71	73	72	78	83	89	94	100

[209]

Proposed

PROPOSED

Male Nonsmoker - Select Mortality Factors

Issue

Duration

Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
41	34	41	53	58	61	61	62	62	63	65	65	67	69	71	71	77	83	88	94	100
42	34	43	53	58	60	61	62	61	61	63	64	66	67	69	71	77	83	88	94	100
43	32	43	53	58	60	61	60	60	60	60	62	64	66	68	69	75	81	88	94	100
44	32	44	52	57	59	60	60	59	59	58	60	62	65	67	69	75	81	88	94	100
45	32	44	52	57	59	60	59	57	57	57	59	61	63	66	68	74	81	87	94	100
46	32	42	50	54	56	57	57	56	55	56	59	61	63	65	67	74	80	87	93	100
47	30	40	48	52	54	55	55	54	54	55	59	61	62	63	66	73	80	86	93	100
48	30	40	46	49	51	52	53	53	54	55	57	61	62	63	63	70	78	85	93	100
49	29	39	43	48	50	51	50	51	53	54	57	61	61	62	62	70	77	85	92	100
50	29	37	42	45	47	48	49	50	51	54	57	61	61	61	61	69	77	84	92	100
51	27	35	40	43	45	47	48	50	51	53	57	60	61	61	62	70	77	85	92	100
52	27	34	39	42	44	45	48	49	50	53	56	60	60	62	62	70	77	85	100	100
53	25	31	37	41	44	45	47	49	50	51	56	59	61	61	62	70	77	100	100	100
54	25	30	36	39	43	44	47	48	49	51	55	59	59	61	62	70	100	100	100	100
55	24	29	35	38	42	43	45	48	49	50	56	58	59	61	62	100	100	100	100	100
56	23	29	35	38	42	42	44	47	48	50	55	57	58	59	100	100	100	100	100	100
57	23	28	35	38	42	42	43	45	47	49	53	55	56	100	100	100	100	100	100	100
58	22	28	33	37	41	41	43	45	45	47	51	53	100	100	100	100	100	100	100	100
59	22	26	33	37	41	41	42	44	44	46	50	100	100	100	100	100	100	100	100	100
60	20	26	33	37	41	40	41	42	42	45	100	100	100	100	100	100	100	100	100	100
61	20	26	33	37	41	40	41	42	42	75	100	100	100	100	100	100	100	100	100	100
62	19	25	32	38	40	40	41	42	75	75	100	100	100	100	100	100	100	100	100	100
63	19	25	33	36	40	40	41	75	75	75	100	100	100	100	100	100	100	100	100	100
64	18	24	32	36	39	40	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	18	24	32	36	39	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	18	24	32	36	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	18	24	32	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	18	24	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	18	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Male Nonsmoker - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[211]

Proposed

PROPOSED

(3) The select mortality factors for male smoker are as shown in the table below:

Male Smoker - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
19	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
20	98	100	100	100	100	100	100	99	99	99	100	99	99	99	100	100	100	100	100	100
21	95	98	99	100	95	96	96	95	96	97	97	96	96	96	96	97	98	98	99	100
22	92	95	96	90	90	93	93	92	93	95	95	93	93	92	93	94	96	97	99	100
23	90	92	85	88	88	89	89	89	90	90	90	90	89	90	92	94	95	97	98	100
24	87	81	82	85	84	86	88	86	86	88	88	86	86	88	89	91	93	96	98	100
25	77	78	79	82	81	83	83	82	83	85	84	84	84	85	86	89	92	94	97	100
26	75	77	79	82	82	83	83	82	83	84	84	84	84	85	81	85	89	92	96	100
27	73	75	78	82	82	83	83	82	82	82	82	84	84	80	81	85	89	92	96	100
28	71	73	79	82	81	82	83	81	81	82	82	82	80	80	81	85	89	92	96	100
29	69	72	78	81	81	82	82	81	81	81	81	77	80	80	81	85	89	92	96	100
30	68	71	78	81	81	81	82	81	81	81	76	77	80	80	81	85	89	92	96	100
31	65	70	77	81	79	81	82	81	81	76	77	79	81	81	83	86	90	93	97	100
32	63	67	77	78	79	81	81	81	76	77	77	80	83	83	85	88	91	94	97	100
33	60	65	74	78	79	79	81	76	77	77	79	80	83	85	85	88	91	94	97	100
34	57	62	74	77	79	79	75	76	77	79	79	81	83	85	87	90	92	95	97	100
35	53	60	73	77	79	75	75	76	77	79	80	82	84	86	88	90	93	95	98	100
36	52	59	71	75	74	75	75	76	77	79	79	81	83	85	87	90	92	95	97	100
37	49	58	70	71	74	74	75	76	77	78	79	81	84	86	86	89	92	94	97	100
38	48	55	66	70	72	74	74	75	76	78	79	81	83	85	87	90	92	95	97	100
39	45	50	65	70	72	72	74	74	75	77	79	81	84	86	86	89	92	94	97	100
40	41	49	63	68	71	72	73	74	74	76	78	80	83	85	86	89	92	94	97	100

Male Smoker - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
41	40	49	63	68	71	72	72	72	73	75	76	78	81	84	85	88	91	94	97	100
42	40	49	62	68	70	71	71	71	71	73	75	76	81	83	85	88	91	94	97	100
43	39	50	62	67	69	69	70	70	70	71	73	76	79	83	85	88	91	94	97	100
44	39	50	60	66	68	69	68	69	69	69	71	74	79	81	85	88	91	94	97	100
45	37	50	60	66	68	68	68	67	67	67	69	73	78	81	85	88	91	94	97	100
46	37	48	58	63	65	67	66	66	66	67	71	74	78	81	84	87	90	94	97	100
47	36	47	55	61	63	64	64	64	65	67	71	75	79	81	84	87	90	94	97	100
48	35	46	53	58	60	62	63	63	65	67	72	75	79	81	83	86	90	93	97	100
49	34	45	51	56	58	59	61	62	63	67	72	77	80	81	83	86	90	93	97	100
50	34	43	49	53	55	57	60	61	63	67	73	78	80	81	81	85	89	92	96	100
51	32	42	47	52	55	57	60	61	63	67	73	78	80	83	84	87	90	94	97	100
52	32	40	46	50	54	56	60	61	63	67	73	78	81	84	85	88	91	94	100	100
53	30	37	44	49	54	56	59	61	65	67	74	79	83	85	87	90	92	100	100	100
54	30	36	43	48	53	55	59	61	65	67	74	80	84	85	89	91	100	100	100	100
55	29	35	42	47	53	55	59	61	65	67	75	80	84	86	90	100	100	100	100	100
56	28	35	42	47	53	55	57	60	63	68	74	79	83	85	100	100	100	100	100	100
57	28	35	42	47	53	54	57	60	64	67	74	78	81	100	100	100	100	100	100	100
58	26	33	43	48	54	54	56	59	63	67	73	78	100	100	100	100	100	100	100	100
59	26	33	43	48	54	53	57	59	63	66	73	100	100	100	100	100	100	100	100	100
60	25	33	43	48	54	53	56	58	62	66	100	100	100	100	100	100	100	100	100	100
61	25	33	43	49	55	55	57	59	63	75	100	100	100	100	100	100	100	100	100	100
62	25	33	43	50	56	56	58	61	75	75	100	100	100	100	100	100	100	100	100	100
63	24	33	45	51	56	56	59	75	75	75	100	100	100	100	100	100	100	100	100	100
64	24	34	45	51	57	57	75	75	75	75	100	100	100	100	100	100	100	100	100	100
65	24	34	45	52	57	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
66	24	35	45	53	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
67	25	35	45	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
68	25	36	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
69	27	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
70	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100

Male Smoker - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
71	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
72	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
73	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
74	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
75	48	52	55	60	60	65	70	70	70	70	100	100	100	100	100	100	100	100	100	100
76	48	52	55	60	60	65	70	70	70	100	100	100	100	100	100	100	100	100	100	100
77	48	52	55	60	60	65	70	70	100	100	100	100	100	100	100	100	100	100	100	100
78	48	52	55	60	60	65	70	100	100	100	100	100	100	100	100	100	100	100	100	100
79	48	52	55	60	60	65	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	48	52	55	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	48	52	55	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	48	52	55	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	48	52	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	48	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

(4) The select mortality factors for female composite are as shown in the table below:

Female Composite - Select Mortality Factors

Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	99	100	100	100	100	100	100	100	93	95	96	97	97	100	100	100	100	100	100	100
18	83	83	84	84	84	84	86	78	78	79	82	84	85	88	88	90	93	95	98	100
19	65	66	68	68	68	68	63	63	64	66	69	71	72	74	75	80	85	90	95	100
20	48	50	51	51	51	47	48	48	49	51	56	57	58	61	63	70	78	85	93	100
21	47	48	50	51	47	47	48	49	51	53	57	60	61	64	64	71	78	86	93	100
22	44	47	48	45	47	47	48	49	53	54	60	61	63	64	66	73	80	86	93	100
23	42	45	44	45	47	47	49	51	53	54	61	64	64	67	69	75	81	88	94	100
24	39	40	42	44	47	47	50	51	54	56	64	64	66	69	70	76	82	88	94	100
25	34	38	41	44	47	47	50	53	56	57	64	67	69	71	73	78	84	89	95	100
26	34	38	41	45	49	49	51	56	58	59	66	69	70	73	70	76	82	88	94	100
27	34	38	41	47	50	51	54	57	59	60	69	70	73	70	71	77	83	88	94	100
28	34	37	43	47	53	53	56	59	62	63	70	73	70	72	74	79	84	90	95	100
29	34	38	43	49	54	56	58	60	63	64	73	70	72	74	75	80	85	90	95	100
30	35	38	43	50	56	56	59	63	66	67	70	71	74	75	76	81	86	90	95	100
31	35	38	43	51	56	58	60	64	67	65	71	72	74	75	76	81	86	90	95	100
32	35	39	45	51	56	59	63	66	65	66	72	72	75	76	76	81	86	90	95	100
33	36	39	44	52	58	62	64	65	66	67	72	74	75	76	76	81	86	90	95	100
34	36	40	45	52	58	63	63	66	67	68	74	74	76	76	76	81	86	90	95	100
35	36	40	45	53	59	61	65	67	68	70	75	74	75	76	75	80	85	90	95	100
36	36	40	45	53	55	62	65	67	68	70	74	74	74	75	75	80	85	90	95	100
37	36	41	47	52	57	62	65	67	68	69	72	72	73	75	74	79	84	90	95	100
38	34	41	44	52	57	63	66	68	69	70	72	71	72	74	75	80	85	90	95	100
39	34	40	45	53	58	63	66	68	69	69	70	70	70	73	74	79	84	90	95	100
40	32	40	45	53	58	65	65	67	68	69	70	69	70	73	73	78	84	89	95	100

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Proposed

Washington State Register, Issue 00-04

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PROPOSED

Female Composite - Select Mortality Factors
Duration

Issue

Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
41	32	40	45	53	57	63	64	67	68	68	69	69	69	73	74	79	84	90	95	100
42	32	40	45	52	56	61	63	65	66	68	69	68	70	74	75	80	85	90	95	100
43	31	39	45	51	55	59	61	65	65	66	68	69	69	74	77	82	86	91	95	100
44	31	39	45	50	54	58	61	63	64	66	67	68	71	75	78	82	87	91	96	100
45	31	38	44	49	53	56	59	62	63	65	67	68	71	77	79	83	87	92	96	100
46	29	37	43	48	51	54	59	62	63	65	67	69	71	77	78	82	87	91	96	100
47	28	35	41	46	49	54	57	61	62	66	68	69	71	77	77	82	86	91	95	100
48	28	35	41	44	49	52	57	61	63	66	68	71	72	75	77	82	86	91	95	100
49	26	34	39	43	47	52	55	61	63	67	69	71	72	75	75	80	85	90	95	100
50	25	32	38	41	46	50	55	61	63	67	69	72	72	75	74	79	84	90	95	100
51	25	32	38	41	45	50	55	61	63	66	68	69	71	74	74	79	84	90	95	100
52	23	30	36	41	45	51	56	61	62	65	66	68	68	73	73	78	84	89	100	100
53	23	30	36	41	47	51	56	61	62	63	65	66	68	72	72	78	83	100	100	100
54	22	29	35	41	47	53	57	61	61	62	62	66	66	69	70	76	100	100	100	100
55	22	29	35	41	47	53	57	61	61	61	62	63	64	68	69	100	100	100	100	100
56	22	29	35	41	45	51	56	59	60	61	62	63	64	67	100	100	100	100	100	100
57	22	29	35	41	45	50	54	56	58	59	61	62	63	100	100	100	100	100	100	100
58	22	30	36	41	44	49	53	56	57	57	61	62	100	100	100	100	100	100	100	100
59	22	30	36	41	44	48	51	53	55	56	59	100	100	100	100	100	100	100	100	100
60	22	30	36	41	43	47	50	51	53	55	100	100	100	100	100	100	100	100	100	100
61	22	29	35	39	42	46	49	50	52	80	100	100	100	100	100	100	100	100	100	100
62	20	28	33	39	41	45	47	49	80	80	100	100	100	100	100	100	100	100	100	100
63	20	28	33	38	41	44	46	80	80	80	100	100	100	100	100	100	100	100	100	100
64	19	27	32	36	40	42	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	19	25	30	35	39	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	19	25	30	35	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	19	25	30	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	19	25	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	19	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Female Composite - Select Mortality Factors
Duration

Issue Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

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Proposed

PROPOSED

(5) The select mortality factors for female nonsmoker are as shown in the table below:

Female Nonsmoker - Select Mortality Factors
Duration

Issue Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	96	98	98	98	98	99	99	99	92	92	93	95	95	97	99	99	99	100	100	100	100
18	78	80	80	80	80	81	81	74	75	75	78	79	82	83	85	88	91	94	97	100	100
19	60	62	63	63	63	65	59	59	60	60	64	67	67	70	72	78	83	89	94	100	100
20	42	44	45	45	45	42	42	42	45	45	50	51	53	56	58	66	75	83	92	100	100
21	41	42	44	45	41	42	42	44	47	47	51	53	54	57	59	67	75	84	92	100	100
22	39	41	44	41	41	42	44	45	49	49	54	56	57	58	60	68	76	84	92	100	100
23	38	41	38	40	41	42	44	46	49	50	56	57	58	60	62	70	77	85	92	100	100
24	36	36	38	40	41	42	46	47	50	51	58	59	60	62	63	70	78	85	93	100	100
25	32	34	37	40	41	43	46	49	51	53	59	60	62	63	64	71	78	86	93	100	100
26	32	34	37	41	43	45	47	50	53	53	60	62	63	64	62	70	77	85	92	100	100
27	32	34	38	43	46	47	49	51	53	55	62	63	64	62	62	70	77	85	92	100	100
28	30	34	39	43	47	49	51	53	56	58	63	63	61	62	63	70	78	85	93	100	100
29	30	35	40	45	50	51	52	55	58	59	64	61	62	63	63	70	78	85	93	100	100
30	31	35	40	46	51	52	53	56	59	60	62	62	63	65	65	72	79	86	93	100	100
31	31	35	40	46	51	53	55	58	60	58	62	62	63	65	65	72	79	86	93	100	100
32	32	35	40	45	51	53	56	59	57	58	62	63	63	65	64	71	78	86	93	100	100
33	32	36	41	47	52	55	58	55	58	59	63	63	65	65	65	72	79	86	93	100	100
34	33	36	41	47	52	55	55	57	58	59	63	65	64	65	64	71	78	86	93	100	100
35	33	36	41	47	52	53	57	58	59	61	63	64	64	64	64	71	78	86	93	100	100
36	33	36	41	47	49	53	57	58	59	61	63	64	63	64	63	70	78	85	93	100	100
37	32	36	41	44	49	53	57	58	59	60	62	62	61	62	63	70	78	85	93	100	100
38	32	37	39	45	50	54	57	58	60	60	61	61	61	62	61	69	77	84	92	100	100
39	30	35	39	45	50	54	57	58	60	59	60	60	59	60	61	69	77	84	92	100	100
40	28	35	39	45	50	54	56	57	59	59	60	59	59	59	60	68	76	84	92	100	100

Female Nonsmoker - Select Mortality Factors

Issue

Duration

Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
41	28	35	39	45	49	52	55	55	58	57	58	59	58	59	60	68	76	84	92	100
42	27	35	39	44	49	52	54	55	56	57	57	57	58	60	61	69	77	84	92	100
43	27	34	39	44	47	50	53	53	55	55	56	57	56	60	61	69	77	84	92	100
44	26	34	38	42	47	50	52	53	54	55	55	55	56	61	62	70	77	85	92	100
45	26	33	38	42	45	48	51	51	52	53	54	55	56	61	62	70	77	85	92	100
46	24	32	37	40	43	47	49	51	52	53	54	55	56	60	61	69	77	84	92	100
47	24	30	35	39	42	45	47	49	51	53	54	55	56	59	60	68	76	84	92	100
48	23	30	35	37	40	44	47	49	50	53	54	55	55	59	57	66	74	83	91	100
49	23	29	33	35	39	42	45	48	50	53	54	55	55	57	56	65	74	82	91	100
50	21	27	32	34	37	41	44	48	50	53	54	55	55	56	55	64	73	82	91	100
51	21	26	30	34	37	41	44	48	49	51	53	53	54	55	55	64	73	82	91	100
52	20	25	30	33	37	41	44	47	48	50	50	51	51	55	53	62	72	81	100	100
53	19	24	29	32	37	41	43	47	48	48	49	49	51	52	52	62	71	100	100	100
54	18	24	29	32	37	41	43	45	47	47	47	49	49	51	51	61	100	100	100	100
55	18	23	28	32	37	41	43	45	45	45	46	46	47	50	50	100	100	100	100	100
56	18	23	28	32	36	39	42	44	44	45	46	46	46	49	100	100	100	100	100	100
57	18	23	28	31	35	38	41	42	44	44	45	45	46	100	100	100	100	100	100	100
58	17	23	26	31	35	36	38	41	41	42	45	45	100	100	100	100	100	100	100	100
59	17	23	26	30	33	35	38	39	40	41	44	100	100	100	100	100	100	100	100	100
60	17	23	26	30	32	34	36	38	39	40	100	100	100	100	100	100	100	100	100	100
61	17	22	25	29	32	33	35	36	38	80	100	100	100	100	100	100	100	100	100	100
62	16	22	25	28	30	32	34	35	80	80	100	100	100	100	100	100	100	100	100	100
63	16	20	24	28	30	32	34	80	80	80	100	100	100	100	100	100	100	100	100	100
64	14	21	24	27	29	30	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	15	19	23	25	28	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	15	19	23	25	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	15	19	22	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	13	18	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	13	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Female Nonsmoker - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

(6) The select mortality factors for female smoker are as shown in the table below:

Female Smoker - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
0-15	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
16	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
17	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
18	99	100	100	100	100	100	100	95	96	97	100	100	100	100	100	100	100	100	100	100
19	87	89	92	92	92	92	84	84	86	86	92	93	95	96	99	99	99	100	100	100
20	74	77	80	80	80	73	73	73	75	77	83	83	86	88	90	92	94	96	98	100
21	71	74	78	78	71	71	73	74	77	79	85	86	88	89	90	92	94	96	98	100
22	68	71	75	70	71	71	73	74	78	79	88	90	89	89	92	94	95	97	98	100
23	65	69	67	70	70	70	73	77	79	81	89	90	90	92	92	94	95	97	98	100
24	62	60	64	69	70	70	74	77	79	81	92	90	92	93	93	94	96	97	99	100
25	53	58	63	67	69	70	74	78	81	82	92	93	93	95	95	96	97	98	99	100
26	53	58	63	69	71	72	75	79	82	82	93	93	95	96	90	92	94	96	98	100
27	52	56	63	70	74	74	78	81	82	84	93	95	95	90	90	92	94	96	98	100
28	52	56	64	71	75	77	79	82	85	86	95	95	90	92	92	94	95	97	98	100
29	51	56	64	71	78	78	81	84	86	88	95	90	90	92	92	94	95	97	98	100
30	51	56	64	72	79	79	82	85	88	89	90	90	92	93	93	94	96	97	99	100
31	51	56	64	72	78	81	84	84	88	84	90	90	92	93	93	94	96	97	99	100
32	51	56	64	71	78	81	85	86	84	85	90	90	92	94	93	94	96	97	99	100
33	51	57	62	71	78	82	85	83	84	85	90	92	93	93	93	94	96	97	99	100
34	51	56	62	71	78	82	81	83	85	86	90	92	92	94	93	94	96	97	99	100
35	51	56	62	71	78	79	83	84	85	86	90	91	91	93	93	94	96	97	99	100
36	49	56	62	71	74	79	83	84	85	86	90	90	91	93	92	94	95	97	98	100
37	48	55	62	67	74	79	83	84	85	86	89	90	89	92	91	93	95	96	98	100
38	47	55	57	66	72	77	81	84	86	86	87	88	88	90	91	93	95	96	98	100
39	45	50	57	66	72	77	81	83	85	86	86	87	86	89	90	92	94	96	98	100
40	41	50	57	66	72	77	81	83	84	85	86	86	86	86	89	91	93	96	98	100

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Proposed

Washington State Register, Issue 00-04

WSR 00-04-090

PROPOSED

Female Smoker - Select Mortality Factors

Issue	Duration																			
Age	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
41	40	50	57	65	71	76	79	81	83	84	85	86	85	89	90	92	94	96	98	100
42	40	49	57	65	69	74	77	80	82	83	84	85	86	90	92	94	95	97	98	100
43	39	49	55	63	69	73	76	78	80	82	83	84	85	92	93	94	96	97	99	100
44	39	48	55	62	67	71	75	78	80	80	82	84	86	93	96	97	98	98	99	100
45	37	47	55	61	65	70	73	76	78	80	81	84	86	94	97	98	98	99	99	100
46	36	46	53	59	63	68	71	75	77	79	83	85	86	93	96	97	98	98	99	100
47	34	44	51	57	62	66	70	75	77	80	83	85	86	93	94	95	96	98	99	100
48	34	44	50	54	60	64	69	74	77	80	84	86	87	92	92	94	95	97	98	100
49	33	42	48	53	58	63	68	74	77	81	84	86	87	92	91	93	95	96	98	100
50	31	41	46	51	57	61	67	74	77	81	85	87	87	91	90	92	94	96	98	100
51	30	39	45	51	56	61	67	74	75	80	83	85	85	90	90	92	94	96	98	100
52	29	38	45	50	56	62	68	74	75	79	81	83	84	90	90	92	94	96	100	100
53	28	37	43	49	57	62	68	73	74	77	79	81	83	89	89	91	93	100	100	100
54	28	36	43	49	57	63	69	73	74	75	78	80	81	87	89	91	100	100	100	100
55	26	35	42	49	57	63	69	73	73	74	76	78	79	86	87	100	100	100	100	100
56	26	35	42	49	56	62	67	71	72	74	76	78	79	85	100	100	100	100	100	100
57	26	35	42	49	55	61	66	69	72	73	76	78	79	100	100	100	100	100	100	100
58	28	36	43	49	55	59	63	68	69	72	76	78	100	100	100	100	100	100	100	100
59	28	36	43	49	54	57	63	67	68	70	76	100	100	100	100	100	100	100	100	100
60	28	36	43	49	53	57	61	64	67	69	100	100	100	100	100	100	100	100	100	100
61	26	35	42	48	52	56	59	63	66	80	100	100	100	100	100	100	100	100	100	100
62	26	33	41	47	51	55	58	62	80	80	100	100	100	100	100	100	100	100	100	100
63	25	33	41	46	51	55	57	80	80	80	100	100	100	100	100	100	100	100	100	100
64	25	33	40	45	50	53	80	80	80	80	100	100	100	100	100	100	100	100	100	100
65	24	32	39	44	49	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
66	24	32	39	44	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
67	24	32	39	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
68	24	32	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
69	24	64	68	72	72	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
70	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100

Female Smoker - Select Mortality Factors

Issue Age	Duration																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
71	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
72	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
73	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
74	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
75	60	60	64	68	68	72	75	75	80	80	100	100	100	100	100	100	100	100	100	100
76	60	60	64	68	68	72	75	75	80	100	100	100	100	100	100	100	100	100	100	100
77	60	60	64	68	68	72	75	75	100	100	100	100	100	100	100	100	100	100	100	100
78	60	60	64	68	68	72	75	100	100	100	100	100	100	100	100	100	100	100	100	100
79	60	60	64	68	68	72	100	100	100	100	100	100	100	100	100	100	100	100	100	100
80	60	60	64	68	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
81	60	60	64	68	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
82	60	60	64	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
83	60	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
84	60	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
85+	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

PROPOSED

WSR 00-04-091
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(WorkFirst Division)

[Filed February 2, 2000, 10:20 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-16-097.

Title of Rule: WAC 388-310-1850 Washington State WorkFirst program, re-employ Washington workers.

Purpose: To amend the rule to clarify client eligibility (family size and income), timeliness in the fair hearing procedure, the availability of funding for bonus payments, and removing the restrictions around the timing of the cash incentive.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.050.

Statute Being Implemented: RCW 74.08.090 and 74.04.050.

Summary: Amend the rule to clarify client eligibility, timeliness in the fair hearing procedure, funding for bonus payments, and removing the restrictions around the timing of the cash incentive in the re-employ Washington workers program.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Sandy Isames, WorkFirst Division, P.O. Box 45480, Olympia, WA 98504-5480, (360) 413-3239, e-mail JSAMESSM@DSHS.WA.GOV, fax (360) 413-3482.

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: Revises the section to provide clarification of client eligibility (family size and income), timeliness in the fair hearing procedure, and the availability of funding for bonus payments. This modification also increases positive client outcomes by removing the language regarding the timing of the cash incentives, and making the cash incentives available to participants for transitional work expenses.

Proposal Changes the Following Existing Rules: The proposal clarifies client eligibility (family size and income), timeliness in the fair hearing procedure, and the availability of funding for bonus payments. This modification also removes the language regarding the timing of the cash incentives, making the cash incentives available to participants for transitional work expenses.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes do not affect small businesses.

RCW 34.05.328 applies to this rule adoption. This rule fits the definition of a significant legislative rule. RCW 34.05.328 (5)(b)(vii) exempts DSHS rules that apply only to client medical or financial eligibility.

Hearing Location: Lacey Government Center (behind Tokyo Bento Restaurant), 1009 College Street S.E., Room 104-B, Lacey, WA 98503, on March 7, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by February 25, 2000, 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 March 7, 2000.

Date of Intended Adoption: No sooner than March 8, 2000.

January 27, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

AMENDATORY SECTION (Amending WSR 99-14-044, filed 6/30/99, effective 7/31/99)

WAC 388-310-1850 Re-employ Washington Workers (RWW). (1) What is the Re-employ Washington Workers (RWW) program?

Re-employ Washington Workers (RWW) is an eight-week job search program administered by the employment security department to help low-income parents connect with jobs as rapidly as possible. The RWW program and services are offered at selected sites throughout Washington state. RWW participation satisfies unemployment insurance work search requirements while providing additional services and activities.

(2) Who can participate in RWW?

You can participate in RWW if:

(a) You are a Washington state resident; and

(b) You worked and earned enough to establish ~~((an))~~ a Washington unemployment insurance benefit claim (see RCW 50.04.030), regardless of why your job ended; and

~~(((b)))~~ (c) Your family's income during the base year used to establish your unemployment insurance claim was not more than one hundred seventy-five percent of the federal poverty level ~~((during the time period on which your unemployment insurance claim is based; and~~

~~(e)))~~ for your family's size. See WAC 388-290-400 for a definition of family and WAC 388-450-0030, 388-450-0025, and 388-450-0015 for definitions of income.

(d) You do not currently receive TANF or SFA cash assistance; and

~~(((d) You have))~~

(e) On the date your unemployment insurance application was filed, you had a dependent child under eighteen years of age living in your household; and

(f) The dependent child lives in your household more than fifty percent of the time.

(3) How do I get into RWW?

To get into RWW, you must first apply for unemployment insurance ~~((and establish an unemployment insurance benefit claim))~~. A job service specialist who has been trained to do the RWW program will screen your claim and contact you if it appears that you qualify. The RWW job service specialist will then determine your eligibility based on ~~((addi-~~

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tional)) the criteria of subsection (2) using income and family information you provide.

(4) What happens when I participate in RWW?

(a) In addition to any unemployment insurance benefits you receive during your claim period, you also get:

(i) Intensive job referral services (including a thirty-hour, job search workshop within the first four weeks of participation, and access to the resource room);

(ii) Help with paying your child care costs under the working connections child care program (see chapter 388-290 WAC for program rules);

(iii) Support services to help you participate in work and RWW activities, following the guidelines in WAC 388-310-0800.

(b) ~~((You may also qualify for cash incentives if you meet the following requirements:~~

~~(i) You participate in the RWW program; and~~

~~(ii) Go to work within six weeks; and~~

~~(iii) Are still working twelve weeks later in a job that takes you off unemployment insurance)) RWW also provides cash incentives, within available funds, to encourage rapid re-employment.~~

(5) How much of a cash incentive can I receive?

~~((If you return to work with earnings high enough to make you ineligible for unemployment insurance benefits, you can receive a RWW cash incentive once during the time period your unemployment insurance claim is based on. Earnings are calculated in accordance with the unemployment insurance laws in RCW 50.04.320. The cash incentives are as follows:~~

CASH INCENTIVES			
Average-gross-weekly-earnings	Employed-within-four-weeks	Employed-in-week-five-or-six	Employed-in-week-seven-or-eight
At or above-earnings-from-your-last-job*	\$300	\$100	N/A**
Below the-earnings-from-your-last-job*	\$200	\$100	N/A**

*"Last job" means your most recent job that meets the definition of work in WAC 388-310-0400 (2)(a).

**Although you do not qualify for a cash incentive, you would continue to receive support services and child care assistance provided you continue to participate.

)) You may receive a total of up to three hundred dollars in RWW cash incentives per unemployment insurance benefit year (that is, the one year period that begins on the date you filed your unemployment insurance application).

(6) What are the requirements to participate in RWW?

To be eligible for RWW program benefits, you must participate in RWW program activities, including:

(a) Attend a thirty-hour job search workshop as soon as possible (during your first four weeks in the program);

(b) Report to the RWW program site ~~((daily during the first four weeks and sign in))~~ to get job leads(;

~~(e))~~ and meet with fellow job seekers to support and encourage each members' job search efforts ((sometimes called the RWW job club);

~~(d) Report to the RWW program site at least twice a week during weeks five to eight and sign in to receive job leads)).~~

(7) Can I continue to participate in RWW if I don't find a job in eight weeks?

Your participation in RWW may be extended for an additional eight weeks if:

(a) You meet the participation requirements and

(b) RWW staff determine that an additional eight weeks of participation is likely to help you find a job.

(8) Can my RWW services be stopped once I enter the program?

If you do not follow RWW program requirements, RWW services will be stopped.

(9) What can I do if I ~~((disagree with a decision about my))~~ do not receive RWW services or benefits I think I should get?

If you ~~((disagree with the decision about your))~~ do not receive RWW services or benefits that you think you should get, you can:

(a) Ask an RWW job service specialist to take a statement from you ~~((explaining the reason you disagree))~~ asking for a written decision about the services or benefits.

(b) ~~((To determine if the decision was correct, the))~~ Local employment security department ((local job service center)) management will review your statement and let you know their decision, in writing, within fifteen days.

(c) If you disagree with the local management decision, you may request a ~~((final))~~ review by the employment security department regional office. You must request this review within thirty days of the local management decision.

(d) ~~((You may request a fair hearing under chapter 388-08 WAC))~~ The regional office will notify you in writing of their decision within fifteen days of receipt of your request.

(e) If you want to appeal the decision of the employment security department regional office, you may request a fair hearing under chapter 388-08 WAC. You must file your request for fair hearing within ninety days of the date you receive the regional office decision.

(10) Can I go back into the RWW program if ~~((there were interruptions in my participation))~~ I was dropped from the program?

((RWW job search is designed to last for eight consecutive weeks. If you stopped participating but you are now able and willing to participate, you may complete the balance of your eight week job search activities and receive the related RWW services and benefits)) If you were dropped from the program, you may contact a RWW specialist to find out if you can resume RWW participation. You may resume RWW participation if the RWW specialist determines that:

(a) You have not exhausted your unemployment insurance benefits; and

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(b) It has not been more than one year since you applied for unemployment insurance benefits.

WSR 00-04-092
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed February 2, 2000, 10:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-24-025.

Title of Rule: WAC 388-490-0005 The department requires proof before authorizing benefits for cash, medical, and food assistance.

Purpose: This rule explains that clients must verify certain information before they can receive benefits. It describes when the department requires verification, what kind of verification is acceptable, and what will happen if the department does not receive the verification.

Statutory Authority for Adoption: RCW 74.08.090 and 74.04.510.

Statute Being Implemented: RCW 74.08.090 and 74.04.510.

Summary: This rule is being amended to clarify the department's policy regarding verification requirements. Establishing one standard will provide consistency throughout the state.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Veronica Barnes, Division of Assistance Programs, P.O. Box 45470, Olympia, WA 98504-5470, (360) 413-3071.

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

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

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

Proposal Changes the Following Existing Rules: WAC 388-490-0005 The department requires proof before authorizing benefits for cash, medical, and food assistance. The language is [as] in this rule was simplified to meet 97-02 standards.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule does not have an economic impact on small businesses. It only affects DSHS clients.

RCW 34.05.328 does not apply to this rule adoption. This rule does 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 March 7, 2000, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Paige Wall by February 25, 2000, 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 March 7, 2000.

Date of Intended Adoption: April 1, 2000.

January 28, 2000

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 388-490-0005 (~~Documents or information needed to determine eligibility~~) **The department requires proof before authorizing benefits for cash, medical, and food assistance.** (~~The department requires clients to provide documents or information to establish the accuracy of a client's circumstances or statements. This is called mandatory verification and varies by program. The following requirements are for cash, food assistance and medical unless otherwise specified:~~

(1) ~~A client has primary responsibility for providing information and verification.~~

(2) ~~Time frames and notice requirements for requested information are stated in:~~

(a) ~~WAC 388-406-0030 and 388-406-0035 for applicants; and~~

(b) ~~WAC 388-418-0010 for recipients.~~

(3) ~~The department requests verification from clients when it is needed to determine eligibility.~~

(4) ~~The department accepts readily available verification that reasonably supports the client's statement or circumstances. Readily available means verification that can be obtained by the client within three working days.~~

(5) ~~A client's signature on the application, eligibility review, or change of circumstance form gives the department consent to obtain supporting evidence from the following sources:~~

(a) ~~A collateral contact. A collateral contact is an oral or written statement from someone outside of the assistance unit that confirms a client's circumstances; or~~

(b) ~~A home visit.~~

(6) ~~When a client is required to provide a document that requires a fee, the department will pay the fee.~~

(7) ~~A client's benefits are not denied, terminated or delayed because of a failure to provide a specific type or form of verification.~~

(8) ~~If all requested verification is not received, a client's eligibility is determined based on all available evidence.~~

(9) ~~If eligibility cannot be determined from the available evidence that was provided, the client's benefits are denied or terminated.~~

(10) ~~When verification was previously provided before and the document is not subject to change, a client is not required to provide the verification again. This applies when the department determines eligibility at:~~

(a) ~~The next application;~~

(b) ~~Reinstatement of a program; or~~

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(e) Redetermination of eligibility)) This rule applies to cash, medical, and food assistance.

(1) When you first apply for benefits, the department may require you to provide proof of things that help us decide your eligibility. This is also called "verification." The types of things that need to be proven are different for each program.

(2) After that, we will ask you to give us proof when:

(a) You report a change; or

(b) When we find out that your circumstances have changed.

(3) Whenever we ask for proof, we will give you a notice as described in WAC 388-458-0001.

(4) You must give us the proof within the time limits described in:

(a) WAC 388-406-0030 and 388-406-0035 if you are applying for benefits; and

(b) WAC 388-458-0001 if you currently receive benefits.

(5) We will accept any proof that you can easily get when it reasonably supports your statement or circumstances. The proof you give to us must:

(a) Clearly relate to what you are trying to prove;

(b) Be from a reliable source; and

(c) Be accurate, complete, and consistent.

(6) We cannot make you give us a specific type or form of proof.

(7) If the only type of proof that you can get costs money, we will pay for it.

(8) If the proof that you give to us is questionable or confusing, we may:

(a) Ask you to give us more proof or provide a collateral contact (a "collateral contact" is a statement from someone outside of your residence that knows your situation);

(b) Schedule a visit to come to your home and verify your circumstances; or

(c) Send an investigator from the division of fraud investigations (DFI) to make an unannounced visit to your home to verify your circumstances.

(9) You give us permission to get collateral contacts from other people or agencies when you sign the application, eligibility review, or change of circumstances form.

(10) If you do not give us all of the proof that we have asked for, we will determine if you are eligible based on the information that we already have. If we cannot determine that you are eligible based on this information, we will deny or stop your benefits.

WSR 00-04-093

PROPOSED RULES

PUGET SOUND

CLEAN AIR AGENCY

[Filed February 2, 2000, 10:29 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under 70.94.141(1).

Title of Rule: Amend Regulation III, Sections 4.01, 4.03, 4.04, 4.05, and 4.06.

Purpose: To no longer require notification for removal of nonfriable asbestos-containing material; to no longer require work practices for removal of nonfriable asbestos-containing material; and to no longer require notification for friable asbestos removals below the thresholds required by EPA (40 C.F.R. Part 61, Subpart M).

Other Identifying Information: Asbestos Control Standards.

Statutory Authority for Adoption: Chapter 70.94 RCW.
Statute Being Implemented: RCW 70.94.141.

Summary: This proposal will reduce the regulatory burden for removing asbestos material that does not present a significant risk to public health.

Reasons Supporting Proposal: To reduce the regulatory burden for removing asbestos material that does not present a significant risk to public health; and to focus our regulatory efforts on removals of asbestos materials that are required to be regulated by EPA.

Name of Agency Personnel Responsible for Drafting: Jim Nolan, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4053; Implementation: Dave Kircher, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4050; and Enforcement: Neal Shulman, 110 Union Street, #500, Seattle, WA 98101, (206) 689-4078.

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The state implementation plan will be updated to reflect these amendments.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This proposal will reduce the regulatory burden for removing asbestos material that does not present a significant risk to public health by no longer requiring: Notification and work practices for removal of nonfriable asbestos-containing material; notification for friable asbestos removals below the thresholds required by EPA.

Allowing us to focus our regulatory efforts on removals that are required to be regulated by EPA.

Proposal Changes the Following Existing Rules: This proposal will remove the requirements to submit a notification for removal of asbestos material that does not present a significant risk to public health.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedure Act.

RCW 34.05.328 does not apply to this rule adoption. Pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: PSCAA Offices, 110 Union Street, #500, Seattle, WA 98101, on March 9, 2000, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Agency Receptionist, (206) 689-4010, by March 2, 2000, TDD (800) 833-6388, or (800) 833-6385 (Braille).

PROPOSED

Submit Written Comments to: Dennis McLerran, Puget Sound Clean Air Agency, 110 Union Street, #500, Seattle, WA 98101, fax (206) 343-7522, by February 28, 2000.

Date of Intended Adoption: March 9, 2000.

February 1, 2000

James Nolan
Director - Compliance

AMENDATORY SECTION

REGULATION III SECTION 4.01 DEFINITIONS

(a) **AHERA BUILDING INSPECTOR** means a person who has successfully completed the training requirements for a building inspector established by EPA Asbestos Model Accreditation Plan; Interim Final Rule (40 CFR Part 763, Appendix C to Subpart E, I.B.3) and whose certification is current.

(b) **AHERA PROJECT DESIGNER** means a person who has successfully completed the training requirements for an abatement project designer established by EPA regulations (40 CFR 763.90(g)) and whose certification is current.

(c) **ASBESTOS** means the asbestiform varieties of actinolite, amosite (cummingtonite-grunerite), tremolite, chrysotile (serpentinite), crocidolite (riebeckite), or anthophyllite.

(d) **ASBESTOS-CONTAINING MATERIAL** means any material containing more than one percent (1%) asbestos as determined using the method specified in EPA regulations Appendix A, Subpart F, 40 CFR Part 763, Section I, Polarized Light Microscopy.

(e) **ASBESTOS-CONTAINING WASTE MATERIAL** means any waste that contains or is contaminated with friable asbestos-containing material. Asbestos-containing waste material includes asbestos waste from control equipment, materials used to enclose the work area during an asbestos project, friable asbestos-containing material collected for disposal, asbestos-contaminated waste, debris, containers, bags, protective clothing, or HEPA filters. Asbestos-containing waste material does not include samples of friable asbestos-containing material taken for testing or enforcement purposes.

(f) **ASBESTOS PROJECT** means any activity involving the ~~((abatement, renovation, demolition,))~~ removal, ~~((salvage,))~~ clean up, or disposal of friable asbestos-containing material ~~((, or any other action that disturbs or is likely to disturb any asbestos-containing material))~~. It includes the removal and disposal of stored friable asbestos-containing material or asbestos-containing waste material. It does not include the application of duct tape, rewettable glass cloth, canvas, cement, paint, or other non-asbestos materials to seal or fill exposed areas where asbestos fibers may be released.

(g) **ASBESTOS SURVEY** means a written report describing an inspection using the procedures contained in EPA regulations (40 CFR 763.86), or an alternate method that has received prior written approval from the Control Officer, to determine whether materials or structures to be worked on, renovated, removed, or demolished (including materials on the outside of structures) contain asbestos.

~~((h) **COMPETENT PERSON** means a person who is capable of identifying asbestos hazards and selecting the appro-~~

~~priate asbestos control strategy, has the authority to take prompt corrective measures to eliminate them, and has been trained and is currently certified in accordance with the standards established by the Washington State Department of Labor & Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction);))~~

~~((h))~~ (h) **COMPONENT** means any equipment, pipe, structural member, or other item covered or coated with, or manufactured from, asbestos-containing material.

~~((i))~~ (i) **DEMOLITION** means wrecking, razing, leveling, dismantling, or burning of a structure, making the structure permanently uninhabitable or unusable.

~~((j))~~ (j) **FRIABLE ASBESTOS-CONTAINING MATERIAL** means asbestos-containing material that, when dry, can be crumbled, pulverized, ~~((disintegrated,))~~ or reduced to powder by hand pressure or by the forces expected to act upon the material in the course of demolition, renovation, or disposal. Such materials include, but are not limited to, thermal system insulation, surfacing material, and cement asbestos products.

~~((k))~~ (k) **LEAK-TIGHT CONTAINER** means a dust-tight and liquid-tight container, at least 6-mil thick, that encloses asbestos-containing waste material and prevents solids or liquids from escaping or spilling out. Such containers may include sealed plastic bags, metal or fiber drums, and sealed polyethylene plastic.

~~((l))~~ (l) **NONFRIABLE ASBESTOS-CONTAINING MATERIAL** means asbestos-containing material that, when dry, cannot be crumbled, pulverized, ~~((disintegrated,))~~ or reduced to powder by hand pressure or by the forces expected to act on the material in the course of demolition, renovation, or disposal.

~~((m))~~ (m) **OWNER-OCCUPIED, SINGLE-FAMILY RESIDENCE** means any non-multiple unit building containing space for uses such as living, sleeping, preparation of food, and eating that is currently used by one family who owns the property as their domicile. This term includes houses, mobile homes, trailers, detached garages, houseboats, and houses with a "mother-in-law apartment" or "guest room". This term does not include rental property or multiple-family units, nor does this term include any mixed-use building, structure, or installation that contains a residential unit.

~~((n))~~ (n) **PERSON** means any individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.)

~~((p))~~ (p) **RENOVATION** means altering a facility or a component in any way, except demolition.

~~((q))~~ (q) **SURFACING MATERIAL** means material that is sprayed-on, troweled-on, or otherwise applied to surfaces including, but not limited to, acoustical plaster on ceilings, paints, fireproofing materials on structural members, or other materials on surfaces for decorative purposes.

~~((r))~~ (r) **SUSPECT ASBESTOS-CONTAINING MATERIAL** means material that has historically contained asbestos including, but not limited to, surfacing material, thermal system insulation, roofing material, fire barriers, gaskets, flooring material, and cement siding.

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~~((9))~~ (q) **THERMAL SYSTEM INSULATION** means material applied to pipes, fittings, boilers, tanks, ducts, or other structural components to prevent heat loss or gain.

AMENDATORY SECTION

REGULATION III SECTION 4.03 NOTIFICATION REQUIREMENTS

(a) General Requirements

It shall be unlawful for any person to cause or allow any work on an asbestos project or demolition unless a complete notification, including the required fee and any additional information requested by the Control Officer, has been submitted to the Agency on approved forms, in accordance with the advance notification period requirements contained in Section 4.03(d) of this Regulation.

(1) The duration of an asbestos project shall be commensurate with the amount of work involved.

(2) Notification is not required for asbestos projects involving less than ~~((40))~~ 260 linear feet of friable asbestos-containing material on pipes or ~~((48))~~ 160 square feet of friable asbestos-containing material on other components (per structure, building, or vessel per calendar year) ~~((of any asbestos-containing material))~~. Notification is not required for an asbestos project in an owner-occupied, single-family residence.

~~((3))~~ Notification is not required for removal and disposal of the following nonfriable asbestos-containing materials: caulking, window glazing, or roofing. All other asbestos project and demolition requirements remain in effect except as provided by Article 4.)

~~((4))~~ (3) Notification is required for all demolitions involving structures with a projected roof area greater than 120 square feet, even if no asbestos-containing material is present. ~~((All other demolition requirements remain in effect.))~~

~~((5))~~ (4) The written notification shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this Regulation unless prior arrangements for payment have been made with the Agency.

~~((6))~~ (5) A copy of the notification, all amendments to the notification, the asbestos survey, and any Order of Approval for an alternate means of compliance shall be available for inspection at all times at the asbestos project or demolition site.

~~((7))~~ (6) A property owner may file notification for multiple asbestos projects or demolitions ~~((Notification for multiple asbestos projects or demolitions may be filed by a property owner))~~ on one form if all the following criteria are met:

(A) The work will be performed continuously by the same contractor; and

(B) A work plan is submitted that includes: a map of the structures involved in the project including the site address for each structure; the amount and type of friable asbestos-containing material in each structure; and the schedule for performing asbestos project and demolition work. For projects where a detailed work schedule cannot be provided,

the asbestos contractor and/or the demolition contractor shall participate in the Agency's work schedule fax program and will continue to participate in the program throughout the duration of the project.

~~((8))~~ Annual Notification

~~A property owner may file one annual notification for asbestos projects to be conducted on one or more structures, vessels, or buildings during each calendar year if all of the following conditions are met:~~

~~(A) The annual notification shall be filed with the Agency before commencing work on any asbestos project included in an annual notification;~~

~~(B) The total amount of asbestos-containing material for all asbestos projects from each structure, vessel, or building in a calendar year under this section is less than 260 linear feet on pipes or less than 160 square feet on other components; and~~

~~(C) The property owner submits quarterly written reports to the Control Officer on Agency approved forms within 15 days after the end of each calendar quarter.))~~

(b) Amendments

(1) Mandatory Amendments

An amendment shall be submitted to the Control Officer for the following changes in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this Regulation unless prior arrangements for payment have been made with the Agency:

(A) Increases in the project type or job size category that increase the fee ~~((or change the advance notification period));~~

(B) Changes in the type of friable asbestos-containing material that will be removed; or

(C) Changes in the start date, completion date, or work schedule, including hours of work. Asbestos contractors or property owners participating in the Agency work schedule fax program are not required to submit amendments for work schedule changes occurring between the start and completion dates.

(2) Optional Amendments

(A) An amendment may be submitted to the Control Officer for any other change in a notification and shall be accompanied by the appropriate nonrefundable fee as set forth in Section 4.03(d) of this Regulation unless prior arrangements for payment have been made with the Agency.

(B) Contractors and property owners participating in the Agency work schedule fax program may, within 45 days after the last completion date on record, submit an amendment to the Control Officer for the removal of additional asbestos-containing material not identified during the asbestos survey. If more than 45 days have lapsed since the last completion date on record, the requirements of Section 4.03(a), including notification periods and fees, shall apply.

(c) Emergencies

The Control Officer may waive the advance notification period, if the property owner submits a written request that demonstrates to the Control Officer that an asbestos project or demolition must be conducted immediately because of any of the following:

(1) There was a sudden, unexpected event that resulted in a public health or safety hazard;

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(2) The project must proceed immediately to protect equipment, ensure continuous vital utilities, or minimize property damage;

(3) Asbestos-containing materials were encountered that were not identified during the asbestos survey; or

(4) The project must proceed to avoid imposing an unreasonable burden.

(d) Notification Period and Fees

Project	Size or Type	Notification Period	Fee
Demolition of Owner-Occupied, Single-Family Residence ((asbestos-project and/or demolition))	All	((Prior Notice)) 10 days	\$25
All Other Demolitions with no asbestos project	All	10 Days	\$150
((Asbestos Project includes demolition fee*))	10-259 linear ft 48-159 square ft	3 Days	(\$150)
Asbestos Project includes demolition fee	260 - 999 linear ft 160 - 4,999 square ft	10 Days	\$300
Asbestos Project includes demolition fee	1,000 - 9,999 linear ft 5,000 - 49,999 square ft	10 Days	\$750
Asbestos Project includes demolition fee	10,000± ((-49,999)) linear ft 50,000± ((-99,999)) square ft	10 Days	\$2,000
((Asbestos Project includes demolition fee	50,000-99,999 linear ft 100,000-149,999 square ft	10 Days	\$5,000
Asbestos Project includes demolition fee	100,000+ linear ft 150,000+ square ft	10 Days	(\$10,000)
Emergency	4.03(c)	Prior Notice	Add 1 fee equal to project fee
Amendment	4.03(b)	Prior Notice	\$50
Alternate Means of Compliance ((demolitions or friable asbestos-containing materials))	4.06 ((a) or (e))	10 Days	Additional fee equal to project fee
((Alternate Means of Compliance (non-friable asbestos containing materials)	4.06(b)	10 Days	Additional fee equal to project fee
Annual	4.03 (a)(8)	Prior Notice	\$1,500

*Demolitions with asbestos projects involving less than 10 linear feet or less than 48 square feet may submit an asbestos project notification under this project category and will be eligible for the 3-day notification period.)

The Control Officer may waive the asbestos project fee and notification period, by written authorization, for disposal of unused and intact or abandoned (without the knowledge or consent of the property owner) friable asbestos-containing materials. ~~((All other asbestos project and demolition requirements remain in effect.))~~

AMENDATORY SECTION

REGULATION III SECTION 4.04 ASBESTOS REMOVAL REQUIREMENTS PRIOR TO RENOVATION OR DEMOLITION

(a) Removal of Asbestos Prior to Renovation or Demolition

Except as provided in Section ~~((4.06(e)))~~ 4.04(c) of this Regulation, it shall be unlawful for any person to cause or allow any demolition or renovation that may disturb friable asbestos-containing material or damage a structure so as to preclude access to friable asbestos-containing material for future removal, without first removing all friable asbestos-containing material in accordance with the requirements of this regulation. Except as provided in Section 4.04(b), non-friable asbestos-containing materials need not be removed prior to a demolition.

Friable ~~((A))~~ asbestos-containing material need not be removed from a component if the component can be removed, stored, or transported for reuse without disturbing or damaging the asbestos.

(b) Demolition by Burning

It shall be unlawful for any person to cause or allow the burning of any facility for fire training without removing all asbestos-containing material prior to burning. This includes both friable and nonfriable asbestos-containing material.

~~((b))~~ (c) **Exception For Hazardous Conditions**

Friable ~~((A))~~ asbestos-containing material need not be removed prior to a demolition or renovation, if the property owner demonstrates to the Control Officer that it is not accessible because of hazardous conditions such as: structures or buildings that are structurally unsound and in danger of imminent collapse, or other conditions that are immediately dangerous to life and health. The property owner must submit the written determination of the hazard by an authorized government official or a licensed structural engineer, and must submit the procedures that will be followed for controlling asbestos emissions during the demolition or renovation and disposal of the asbestos-containing waste material.

AMENDATORY SECTION

REGULATION III SECTION 4.05 PROCEDURES FOR ASBESTOS PROJECTS

(a) **Training Requirements**

It shall be unlawful for any person to cause or allow any work on an asbestos project unless it is performed by persons trained and certified in accordance with the standards established by the Washington State Department of Labor & Industries, the federal Occupational Safety & Health Administration, or the United States Environmental Protection Agency (whichever agency has jurisdiction) and whose certification is current.

This certification requirement does not apply to asbestos projects conducted as part of a renovation in an owner-occupied, single-family residence performed by the resident owner of the dwelling.

(b) **Asbestos Removal Work Practices**

Except as provided in Section 4.06 of this Regulation, it shall be unlawful for any person to cause or allow the removal of friable asbestos-containing material unless all the following requirements are met:

(1) The asbestos project shall be conducted in a controlled area, clearly marked by barriers and asbestos warning signs. Access to the controlled area shall be restricted to authorized personnel only.

(2) If a negative pressure enclosure is employed it shall be equipped with transparent viewing ports, if feasible, and shall be maintained in good working order.

(3) Absorbent, asbestos-containing materials, such as surfacing material and thermal system insulation, shall be saturated with a liquid wetting agent prior to removal. Any unsaturated, absorbent, asbestos-containing materials exposed during removal shall be immediately saturated with a liquid wetting agent.

(4) Nonabsorbent, asbestos-containing materials, such as cement asbestos board ~~((or vinyl asbestos tile))~~, shall be continuously coated with a liquid wetting agent on any exposed surface prior to and during removal. Any dry surfaces of nonabsorbent, asbestos-containing materials exposed during

removal shall be immediately coated with a liquid wetting agent.

(5) Metal components (such as valves, fire doors, and reactor vessels) that have internal asbestos-containing material are exempt from the requirements of Sections 4.05 (b)(3) and 4.05 (b)(4) if all access to the asbestos-containing material is welded shut or the component has mechanical seals, which cannot be removed by hand, that separate the asbestos-containing material from the environment.

(6) Except for surfacing materials being removed inside a negative pressure enclosure, asbestos-containing materials that are being removed, have been removed, or may have fallen off components during an asbestos project shall be carefully lowered to the ground or a lower floor, not dropped, thrown, slid, or otherwise damaged.

(7) All asbestos-containing waste material shall be sealed in leak-tight containers as soon as possible after removal but no later than the end of each work shift.

(8) All absorbent, asbestos-containing waste material shall be kept saturated with a liquid wetting agent until sealed in leak-tight containers while saturated with a liquid wetting agent. All nonabsorbent, asbestos-containing waste material shall be kept coated with a liquid wetting agent until sealed in leak-tight containers while coated with a liquid wetting agent.

(9) The exterior of each leak-tight container shall be free of all asbestos residue and shall be permanently labeled with an asbestos warning sign as specified by the Washington State Department of Labor and Industries or the federal Occupational Safety and Health Administration.

(10) Immediately after sealing, each leak-tight container shall be permanently marked with the date the material was collected for disposal, the name of the waste generator, and the address at which the waste was generated. This marking must be readable without opening the container.

(11) Leak-tight containers shall not be dropped, thrown, slid, or otherwise damaged.

(12) The asbestos-containing waste material shall be stored in a controlled area until transported to an approved waste disposal site.

~~((e))~~ **Method of Removal for Nonfriable Asbestos-Containing Roofing Material**

~~The following asbestos removal method shall be employed for asbestos-containing roofing material that has been determined to be nonfriable by a Competent Person or an AHERA Project Designer:~~

~~(1) The nonfriable asbestos-containing roofing material shall be removed using methods such as spud bar and knife. Removal methods such as sawing or grinding shall not be employed;~~

~~(2) Dust control methods shall be used as necessary to assure no fugitive dust is generated from the removal of nonfriable asbestos-containing roofing material;~~

~~(3) Nonfriable asbestos-containing roofing material shall be carefully lowered to the ground to prevent fugitive dust;~~

~~(4) After being lowered to the ground, the nonfriable asbestos-containing roofing material shall be immediately transferred to a disposal container; and~~

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~~(5) Each disposal container shall have a sign identifying the material as nonfriable asbestos-containing roofing material.)~~

AMENDATORY SECTION

REGULATION III SECTION 4.06 ALTERNATE MEANS OF COMPLIANCE

~~((a) Friable Asbestos-Containing Material Removal Alternative))~~

An alternate asbestos removal method may be employed for friable asbestos-containing material if an AHERA Project Designer (who is also qualified as a Certified Hazardous Materials Manager, Certified Industrial Hygienist, Registered Architect, or Professional Engineer) has evaluated the work area, the type of asbestos-containing material, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the planned control method will be equally as effective as the work practices contained in Section 4.05(b) of this Regulation in controlling asbestos emissions. The property owner or the owner's agent shall document through air monitoring at the exhaust from the controlled area that the asbestos fiber concentrations outside the controlled area do not exceed 0.01 fibers/cc, 8 hour average.

The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the planned control method is as effective as that required by Section 4.05(b), and may revoke the Order of Approval for cause.

~~((b) Nonfriable Asbestos-Containing Material Removal Alternative~~

~~An alternate asbestos removal method may be employed for nonfriable asbestos-containing material if a Competent Person or AHERA Project Designer has evaluated the work area, the type of asbestos-containing material, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the planned control method will be equally as effective as the work practices contained in Section 4.05(b) of this Regulation in controlling asbestos emissions.~~

~~The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the planned control method is as effective as that required by Section 4.05(b), and may revoke the Order of Approval for cause.~~

~~(c) Leaving Nonfriable Asbestos-Containing Material in Place During Demolition~~

~~Nonfriable asbestos containing material may be left in place during a demolition, if an AHERA Project Designer (who is also qualified as a Certified Hazardous Materials Manager, Certified Industrial Hygienist, Registered Architect, or Professional Engineer) has evaluated the work area, the type of asbestos-containing materials involved, the projected work practices, and the engineering controls, and demonstrates to the Control Officer that the asbestos-containing material will remain nonfriable during all demolition activities and the subsequent disposal of the debris.~~

~~The Control Officer may require conditions in the Order of Approval that are reasonably necessary to assure the asbestos-containing material remains nonfriable, and may revoke the Order of Approval for cause.)~~

WSR 00-04-099

PROPOSED RULES

GAMBLING COMMISSION

[Filed February 2, 2000, 11:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 99-21-043 with a published date of November 3, 1999.

Title of Rule: Bingo rules, WAC 230-02-108, 230-02-123, 230-02-183, 230-08-080, 230-08-100, 230-08-105, 230-12-050, 230-12-078, 230-20-110, 230-20-120, 230-20-220, 230-20-243, and 230-20-244.

Purpose: To streamline bingo rules that charitable and nonprofit organizations operate under. Gambling proceeds, net return and the qualification to be considered an active member were redefined; the retention period of some bingo records was reduced; political contributions are no longer required to be reported to the commission; electronically generated formats for inventory control would be allowed as an inventory control format; bingo operators would be allowed to offer free and discounted food and nonalcoholic beverages to their players; language was added to clarify that a maximum of 66 electronic bingo cards may be played at one time; and language that was redundant with other rules was removed for streamlining purposes.

Statutory Authority for Adoption: RCW 9.46.070.

Summary: See Purpose above.

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

Name of Proponent: Staff, governmental.

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

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

Proposal Changes the Following Existing Rules: See Purpose above.

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

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

Hearing Location: The Inn at Semiahmoo, 9565 Semiahmoo Parkway, Blaine, WA 98230, (360) 371-2000, on March 10, 2000, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Shirley Corbett by March 1, 2000, TDD (360) 438-7638, or (360) 438-7654 ext. 302.

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Submit Written Comments to: Susan Arland, Mailstop 2400, Olympia, WA 98504-2400, fax (360) 438-8652, by March 1, 2000.

Date of Intended Adoption: March 10, 2000.

February 2, 2000

Susan Arland

Rules Coordinator

AMENDATORY SECTION (Amending WSR 94-01-035, filed 12/6/93, effective 1/6/94)

WAC 230-02-108 Gambling proceeds defined. For purposes of this title, "gambling proceeds" means((:

(4)) all moneys remaining from the operation of any gambling activity after payment of prizes and necessary expenses.

(1) Expenses are deemed to be necessary when ~~((the activity can not be operated without such,))~~ they are required to operate an activity (such as taxes and license fees) or they improve the overall profitability of the activity by increasing gross gambling receipts more than the corresponding increase in expenses; and

(2) ~~((All assets obtained with moneys generated from gambling activities.))~~ All assets of the organization are presumed to be obtained with gambling proceeds unless the organization maintains complete separation of funds generated from nongambling sources from funds generated from gambling activities.

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

WAC 230-02-123 Charitable or nonprofit organizations—Net return defined. "Net return" is the total ~~((amount of return))~~ percentage returned from the operation of bingo games after payment of reasonable prizes and necessary expenses.

(1) Net return ~~((is expressed as a percent of bingo gross gambling receipts and))~~ is computed by dividing bingo gross gambling receipts into the combined net income from bingo games, punch boards/pull-tabs, amusement games, raffles conducted in conjunction with bingo games, ~~((and))~~ food, drink, or other retail sales activities conducted in conjunction with bingo games, and allowable income from rental of the gaming facility.

(2) For purposes of computing net return, local gambling taxes for bingo, punch boards/pull-tabs, and amusement games, whether paid or accrued, will be added to the accounting net income.

AMENDATORY SECTION (Amending WSR 95-07-093, filed 3/17/95, effective 7/1/95)

WAC 230-02-183 Active member defined. For purposes of this title, "active member" means an individual who is a "bona fide member," as defined by RCW 9.46.0261, and meets all of the requirements set out below:

Reason for joining the organization.

(1) Did not join the organization specifically to participate in, or be an operator or manager of, gambling activities;

Ability to vote.

(2) Is authorized to vote in the election of officers or board members who determine the policies of the organization;

Length of membership.

(3) Has been a member for at least twelve months preceding an application for a gambling license, or has been accepted as a member according to guidelines set out in the organization's bylaws and such acceptance recorded in the official minutes of a regular membership meeting: Provided, That the minimum time provision does not apply to board members or directors if the organization's membership consists entirely of board members or directors elected or appointed for a limited term;

Membership criteria.

(4) Complies with membership criteria, as set out in the organization's bylaws;

Location of residence and meeting attendance.

(5) Lives within the boundaries of Washington state or, if outside the state boundaries, lives within one hundred miles of the main administrative offices of the organization which is located within Washington state or attends seventy-five percent of board meetings: Provided, That the director may waive the requirements of this subsection for organizations applying for a license to conduct raffles only;

Age limit.

(6) Is at least eighteen years old: Provided, That the director may waive this provision when:

(a) The organization's primary purpose is the development of youth;

(b) The organization is applying for a license to conduct only raffles or amusement games;

(c) The organization has at least three members or advisors that are at least eighteen years of age who supervise the operation of the activity; and

(d) One of the adult members or advisors shall be designated as the manager of the activity. This member shall be responsible for ensuring that all activities are operated in accordance with all requirements of the commission and shall attend training required by WAC 230-04-020;

Member participation.

(7) Has participated directly in the activities conducted by the organization over the past twelve months. For purposes of this section, participation by a member in any of the following activities during the twelve-month period immediately preceding an application for certification shall be prima facie evidence of direct participation:

(a) Attended at least one regular membership meeting; or

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(b) Voted in person or, if authorized by the organization's bylaws, by proxy at a meeting at which officers and/or board members were elected; or

(c) Has been actively involved in policy setting for the organization by serving as a member of the board of directors or a similar policy setting position; or

(d) Has paid dues imposed by the organization; or

(e) Has served as a volunteer providing services or raising funds from nongambling sources; or

(f) Has maintained a level of communications with the organization that would allow them to demonstrate in-depth knowledge regarding the activities of the organization. In-depth knowledge would include:

(i) The types of program services provided;

(ii) The scope of program services provided;

(iii) Sources and levels of funding available to the organization; and

(iv) Key plans, including major programs and capital projects.

Cities and towns exempted.

(8) Incorporated towns or cities applying for a license to conduct gambling activities are exempted from all requirements of this section. The citizens of an incorporated town or city, who are registered to vote in the election for the mayor or governing body of such town or city, are deemed to be "active members" of such towns and cities.

AMENDATORY SECTION (Amending Order 369, filed 12/1/98, effective 1/1/99)

WAC 230-08-080 Daily records—Bingo. In addition to any other requirement set forth in these rules, licensees for the operation of bingo shall be required to prepare a detailed record covering each bingo session as defined in WAC 230-02-104: Provided, That operators of bingo games conducted at qualified agricultural fairs and other special locations shall be exempt from this rule, but will be required to keep all operator records by location in order to properly report all information as required by WAC 230-08-250. This detailed daily record shall disclose the following information for each separate session conducted during a bingo occasion:

Gross gambling receipts.

(1) The gross gambling receipts collected for each separate type of sale, of any kind, for bingo games including, but not limited to, regular games, early bird games, blackout games, special games, or pick up games. These gross gambling receipts shall be supported by receipting records required by WAC 230-20-101 and inventory control records required by WAC 230-08-105. Licensees using the combination receipting method shall reconcile the extended value of all disposable cards, packets of cards, and electronically generated cards sold to the amount of sales recorded per the cash register;

Prizes paid.

(2) The amount paid out or accrued for prizes awarded for each bingo game. Each session record shall contain the following minimum information regarding prizes awarded:

(a) The game number;

(b) The dollar amount or the actual cost of each prize;

(c) A complete description of all noncash prizes;

(d) The consecutive number of the prize receipt issued for each prize;

(e) The duplicate copy of the prize receipt issued for all prizes awarded during the session or the merchandise prize receipt log as allowed by WAC 230-20-102(4);

(f) The check number of all checks used to pay winners of bingo games: Provided, That if the payment must be made by check under the guidelines of WAC 230-20-102 (1)(c), the duplicate copy must be maintained as a part of the session records;

(g) Full details of prizes accrued; and

(h) For accrued prizes contributed to a linked bingo prize:

(i) The amount of the contribution;

(ii) The amount of any consolation prize paid by the licensee for a linked bingo prize game; and

(iii) The name of the linked bingo prize provider to whom the contribution is made;

Net gambling receipts.

(3) The net gambling receipts from each bingo session;

Cash on hand.

(4) The cash on hand at the commencement and the conclusion of each session;

Reconciliation of bank deposits.

(5) A reconciliation of cash on hand, net gambling receipts, and the bank deposit of net revenue for each session. The bank deposit shall be supported by a validated copy of the bank deposit receipt. Steps taken to reconcile overages and/or shortages that exceed twenty dollars for any session must be documented;

Attendance.

(6) An attendance record indicating the number of people participating and the time the attendance count was made;

Numbers or symbols selected.

(7) All bingo numbers or symbols selected and called during any game that offers a prize exceeding two hundred dollars. The numbers or symbols shall be recorded in the sequence selected. A computer generated "call sheet" may be used in lieu of a manual record if a print-out of results is made;

Winning cards or face numbers.

(8) The winning card or face number(s) for each individual prize awarded that exceeds two hundred dollars: Provided, That if the game is played using disposable bingo cards, the winning card or sheet of cards may be retained in lieu of the card numbers;

Schedule of games to be played.

(9) A copy of the schedule of the games to be played and prizes available for the session: Provided, That if the record is annotated with the effective dates of each game schedule, it may be maintained separately and updated only when a change occurs. Any changes to the advertised and printed game and prize schedule, that occur during a session, must be noted in the session records and verified by the signature of the gambling manager assigned primary responsibility for supervising the session and another bingo worker on duty during the session;

Review of records by gambling manager required.

(10) The gambling manager assigned primary responsibility for supervising the bingo session(s) must review all session records for accuracy, determine that required information is provided, and confirm the required deposit amount(s). After satisfactory completion of this review, the records must be signed by the gambling manager responsible for supervising the session before the gambling manager leaves the premises on the day(s) the session(s) was conducted; and

Format of records and length of retention.

(11) All records required by this section shall be:

- (a) Recorded in a standard format prescribed by the commission;
- (b) Recorded during the course of each session; and
- (c) Retained for a period of not less than twenty-four months, with the exception of the session summary which shall be retained for a period of not less than three years.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-08-100 Political contributions of licensees to be reported.

AMENDATORY SECTION (Amending Order 293, filed 6/18/96, effective 7/19/96)

WAC 230-08-105 Disposable bingo cards—Inventory control record. All disposable bingo cards purchased or otherwise obtained must be controlled and accounted for by the licensee. This control function shall be accomplished by maintaining an inventory control record prepared in a format prescribed by the commission for Class D and above licensees: Provided, That alternative formats, including electronically generated formats, accomplishing regulatory requirements may be approved by commission staff.

Purchase invoices.

(1) All purchase invoices, or a photocopy thereof, for disposable bingo cards received must be maintained on the bingo premises;

Packing slips.

(2) Manufacturer packing records, required by WAC 230-20-192, shall be maintained as a part of the inventory control record;

Information to be recorded for disposable bingo cards.

(3) The following information must be recorded for disposable bingo cards immediately after purchase or before the next bingo occasion:

- (a) The identification and inspection services stamp number;
- (b) The serial number or, if packets, the serial number of the top page;
- (c) The number of cards or card packets in the series;
- (d) The type of card or card packet;
- (e) The purchase invoice number;
- (f) The purchase invoice date;
- (g) Date and session first placed into play; and
- (h) The dollar value assigned each sheet or card packet when placed into play;

Combination receipting method.**Information to be recorded for disposable bingo cards.**

(4) In addition to the information required in subsection (3) of this section, licensees using the combination receipting method, per WAC 230-20-108, shall record the following for each session sets or collations of cards are sold:

- (a) The session number and date;
- (b) The beginning and ending audit control numbers of the top page of the packets;
- (c) Adjustments for any missing packets, per the manufacturer's packing record;
- (d) The number of packets distributed to sales points and returned as unsold;
- (e) Total packets issued;
- (f) The value of each packet;
- (g) The extended value obtained by multiplying total packets issued times the value of each packet. This total shall be carried forward to the "Daily Bingo Summary" and reconciled to the amount of sales per the cash register record; and
- (h) The cumulative number of packets issued from the collation, session-to-date;

Dividing cards into subgroups.

(5) Licensees using the combination receipting method may divide sets or collations of cards into no more than ten subgroups only if the information required by subsections (3) and (4) of this section are recorded for each subgroup.

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

WAC 230-12-050 Extension of credit, loans, or gifts prohibited—Limited exception. No licensee, member or employee thereof shall extend credit, make a loan, or grant a gift to any person playing in an authorized activity, or which enables a person to play in an authorized activity. The consideration required to participate in the activity shall be col-

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lected in full, by cash, check, or electronic point-of-sale bank transfer, prior to participation: Provided, That this prohibition shall not apply to the following situations:

Punchboard/pull-tabs.

(1) The consideration paid for the opportunity to play a punch board or pull-tab series may be collected immediately after the play is completed only when such consideration is ten dollars or less;

Charitable/nonprofit organization's billing system for members.

(2) When a bona fide charitable or bona fide nonprofit organization conducting any of the activities authorized by chapter 9.46 RCW or commission rules has a regular billing system for all of the activities of its members with such organization, such billing system may be utilized in connection with the playing of any of the activities authorized hereunder if:

- (a) The playing of such activity is limited to regular members of such organization who have become regular members prior to the commencement of such activity and whose qualifications for membership were not dependent upon, or in any way related to, the playing of such activity; and
- (b) The commission has given its prior written consent to the use of such billing system in connection with the conduct of activities authorized under these rules.

Raffle tickets purchased with credit cards.

(3) Charitable or nonprofit organizations utilizing credit cards, issued by a state and/or federally regulated financial institution, for payment to participate in raffles; and

Promotional gifts.

- (4) Promotional gifts detailed below:
 - (a) The providing of free or discounted food, drink, or merchandise to card players at a public card room;
 - (b) Promotional activities conducted as a part of bingo games and authorized by WAC 230-20-125;
 - (c) Performances as authorized by WAC 230-20-111;
 - (d) Free play for card playing as authorized by WAC 230-40-050(4);
 - (e) "Free roll" or customer appreciation tournaments as authorized by WAC 230-40-055(2); and
 - (f) Promotional game cards meeting the standards of WAC 230-46-070 (1), (a), (b), (c), (d), (e).

Food and drink to bingo players.

(5) Free or discounted food or nonalcoholic drink to bingo players.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-20-110 Prohibited practices.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 230-20-120 No free food or beverages to be provided at bingo games—Exceptions.

AMENDATORY SECTION (Amending Order 255, filed 8/16/94, effective 9/16/94)

WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restriction—Standards. The commission deems that any device, apparatus, or scheme that allows a player in any gambling activity a material advantage over other players is against public policy and restriction of such is in the public's interest. Electronic bingo card marking devices or daubers are deemed to provide a player a material advantage unless operated in accordance with subsection (2) of this section. For purposes of this title, the following definitions, restrictions, and standards apply to such devices:

Definition.

(1) Electronic bingo card daubers are defined as electronic appliances used by players to identify bingo cards that contain numbers or symbols input by a player. These devices electronically store preprinted bingo cards purchased by a player, provide a means for players to input numbers or symbols called by the operator, compare the numbers or symbols input by the player to bingo cards previously stored in an electronic data base, and identify to the player those stored bingo cards that contain the numbers or symbols input by the player: Provided, That player-owned devices, which are not directly interfaced with or connected to equipment used to conduct bingo games or the electronic data base in which electronically generated bingo cards are stored in any manner, are not "electronic bingo card daubers" for purposes of this title;

Operating restrictions.

(2) Electronic bingo card daubers will not be deemed to provide players a material advantage and may be used by players in bingo games when operated in the following manner:

Player responsibilities.

- (a) The player must perform at least the following functions:
 - (i) Input each number or symbol called by the operator into the memory of the dauber unit by use of a separate input function for each number symbol. Automatic or global marking of numbers or symbols is prohibited;
 - (ii) Notify the operator when a winning pattern or "bingo" occurs by means that do not utilize the dauber unit or the associated system; and
 - (iii) Identify the winning card and display the card to the operator;

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Maximum number of cards to be played during each game.

(b) Each player using an electronic dauber is limited to playing a maximum of sixty-six cards during any game;

Reserving electronic bingo card daubers.

(c) Operators shall not reserve electronic daubers for any player. An operator must devise and disclose to players a scheme for assignment of dauber units to players during each session. Such schemes shall allow all players an equal opportunity to utilize the available dauber units. If a drawing is used to assign dauber units to players, the operator shall ensure that each player participating in the drawing has an equal chance to win: Provided, That operators that offer electronic dauber units shall reserve at least one device for players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with definitions set forth in the Americans with Disabilities Act (ADA). If there are no requests for use of this unit prior to fifteen minutes before the scheduled start of the session, it may be made available for use by any players;

Fee.

(d) If operators charge players a fee for use of the electronic daubers, such fees must be a flat fee and shall not be based on the number or dollar value of cards purchased. Fees charged shall be treated as rental income and may be used to reduce any expenses of operating these devices for compliance with net income requirements. Rental fees shall be considered bingo receipts for purposes of WAC 230-12-020: Provided, That players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with the ADA shall not be required to pay a rental fee or to comply with minimum purchase requirements imposed on all players utilizing electronic daubers. Such players are required to comply with any minimum purchase requirement imposed on all players by an operator;

Card requirements.

(e) Each player utilizing an electronic dauber must have in their possession cards that meet all requirements of WAC 230-20-240 and 230-20-101(3). Electronic images of cards or faces stored in such devices are for player convenience only and are not bingo cards for purposes of this title;

Leasing by an operator.

(f) If the electronic daubers are leased to an operator, the lease cannot be based in whole or part on the amount of bingo card sales or rental income derived from such devices; and

Discounts and marketing schemes.

(g) The use of electronic daubers is prohibited when a licensee utilizes any marketing scheme for cards that results in a decrease in the per unit price of each card as the number of cards purchased increases: Provided, That a single discount level is authorized for each type of card sold if:

(i) The licensee has a minimum purchase requirement;

(ii) The discount applies to all additional cards purchased; and

(iii) "All you can play" schemes are prohibited;

Standards.

(3) Electronic bingo card daubers must meet the following standards:

(a) Be manufactured by licensed manufacturers;

(b) Be sold, leased, and serviced by licensed distributors or manufacturers: Provided, That operators may perform routine maintenance on devices under their control;

(c) Not be capable of accessing the electronic computer system in any manner that would allow modification of the program which operates and controls the dauber units or the cards stored in the electronic data base; and

(d) Be capable of complying with applicable requirements of WAC 230-20-101(3).

AMENDATORY SECTION (Amending WSR 94-01-035, filed 12/6/93, effective 1/6/94)

WAC 230-12-078 Bona fide charitable or nonprofit organizations—Responsibilities—Independent management control structure required. It shall be the affirmative responsibility of each charitable or nonprofit organization licensed to conduct gambling activities, and its officers or board of directors, to ensure the legislative intent regarding gambling activities is met.

Independent management control system for all charitable/nonprofit organizations.

(1) This responsibility shall be fulfilled by developing and maintaining an independent management control system that ensures the following:

(a) Gambling activities are closely supervised and operated according to commission guidelines;

(b) Gambling proceeds are used solely to advance the purposes of the organization;

(c) All assets of the organization are protected from misuse or defalcation; and

(d) An operating environment that facilitates implementation of the officers' or board of directors' policies is maintained.

Group III, IV or V management control system.

(2) Each charitable or nonprofit organization licensed to conduct gambling activities in Groups ((H or Group)) III, IV or V, as defined in WAC 230-04-040, shall fulfill its responsibilities by:

((+)) (a) Developing and implementing a management control system which:

((+)) (b) Will be overseen by an independent slate of officers or board of directors, that has been elected by a process in which all active members have a single vote;

((+)) (c) Includes written policies which set the responsibilities of officers, board of directors, and employees;

((+)) (d) Includes written policies establishing the scope of authority delegated to officers, board of directors, and employees;

~~((d))~~ (e) Includes affirmative management and accounting controls that ensure that all funds and other assets directly or indirectly obtained with gambling proceeds are protected from misuse, dedicated solely to the purposes of the organization, and do not inure to the private use of any person. For purposes of this section, the following uses of gambling proceeds shall not be deemed inurement:

(i) Providing program services to members or the public; or

(ii) Expenditures for necessary expenses, including salaries or wages for services to perform the purposes of the organization. Salaries or wages paid to members, officers, board of directors, or direct family members of any of the preceding, shall not be deemed inurement if they are necessary, reasonable, and the decision to pay such is made in an independent management control environment.

~~((e))~~ (f) Includes a planning process that sets goals regarding uses of gambling proceeds and allows the officers or board of directors to monitor progress toward meeting such goals: Provided, That organizations reserving funds in endowments or trust funds under limitations in WAC 230-04-024 (8)(b) and (c) must have a formal business plan or budget outlining uses of such;

~~((f))~~ (g) Includes a system of internal accounting controls that is designed to reduce errors, minimize risk of defalcations, and safeguard assets. The organization's officers or board of directors shall implement procedures to monitor established controls for compliance. The internal accounting control system shall include at least the following controls:

(i) Management approval for expenditures;

(ii) Procedures that restrict access to assets to only those individuals authorized by management;

(iii) Procedures to ensure all transactions are recorded in accordance with generally accepted accounting principles. Transactions shall be recorded with enough detail to maintain accountability of assets; and

(iv) Periodic comparison of recorded assets to physical assets and reconciliation of all differences.

~~((g))~~ (h) Will be documented and available for commission staff review.

Independent operating environment - conflicts of interest.

~~((2))~~ (3) Maintaining an independent operating environment. An organization's operating environment will be independent when its officers, board members, and supervisory level employees completely separate their personal interests and the interest of the organization: Provided, That an organization shall not be in violation of this section if individual officers or board members acknowledge potential conflicts of interest and abstain from voting on issues that directly or indirectly affect their personal interest. Any potential conflicts of interest situations involving supervisor level employees must be reviewed and approved by the governing board of the organization. All discussions or balloting regarding potential conflicts of interest shall be recorded in the official meeting minutes. Any of the following actions by officers, board members, or supervisory level employees that are not approved by the board of directors and documented in the

official minutes shall provide a presumption of the lack of an independent operating environment:

(a) They directly or indirectly receive financial or personal benefit from the organization or share in gambling proceeds of the organization; or

(b) They are directly or indirectly responsible for supervision of, or have decision-making authority over transactions that may result in direct or indirect financial or personal benefit to: Their direct relatives, including spouses, parents, children, siblings, and similar relationships, whether by blood, adoption, or marriage; persons with whom they maintain a common household; or persons with whom they have a business relationship; or

(c) They directly or, through lack of action, indirectly allow others to receive or share in the gambling proceeds of the organization.

AMENDATORY SECTION (Amending WSR 95-12-051, filed 6/2/95, effective 7/3/95)

WAC 230-20-220 Bingo operators shall not play in bingo games. Except as authorized by this section, no bingo operator shall allow ((a)) any person who ((receives any compensation, directly or indirectly, for the operation of, any bingo game conducted by the operator)) participates in the operation or management of a bingo game to play in ((a)) any bingo games conducted by that ((operator)) licensee.

~~((No operator shall allow any person who, without payment, assists in the operation of any bingo game conducted by that operator to play in any bingo game conducted by that operator on the same bingo occasion. However, the second paragraph of this rule shall not apply to Class A, B, and C bingo licensees, or to games operating under the authority of chapter 9.46 RCW.))~~ This prohibition shall not apply to the following:

(1) Persons that work without compensation: Provided, That volunteers shall not be allowed to play at bingo sessions during which they participate in the management or operation; or

(2) Class A, B, or C bingo licensees.

AMENDATORY SECTION (Amending WSR 94-01-033, filed 12/6/93, effective 1/6/94)

WAC 230-20-243 Hidden face bingo games. Licensees may play bingo games that allow cards to be sold after numbers or symbols have been selected and called if the numbers or symbols imprinted on the cards can not be determined by any means prior to being opened by the player. The following restrictions apply to games involving hidden face bingo cards:

Card requirements.

(1) Cards meeting the requirements of WAC 230-20-192 must be used;

Sales receipt and inventory control record.

(2) The disposable bingo card receipting method (WAC 230-20-101(4)) must be used to receipt for sales of these

cards and all inventory requirements set out in WAC 230-08-105 apply;

Duplicate cards shall not be sold.

(3) To ensure that duplicate cards are not sold during a game, strict compliance with consecutive issuance of cards must be followed and each complete set and/or subset of cards must be sold in its entirety prior to issuance of any cards from a different set and/or subset: Provided, That cards from more than one set may be sold during a game if care is taken to ensure that duplicate cards are not sold;

Play shall be completed during each session.

(4) All play must be completed during a single session and only involve cards that are sold during that session;

"On-the-way" games.

(5) A new set of numbers or symbols shall be selected and called for each game or set of games if "on-the-way" games are played. Players that have paid to participate in the game must be present when the numbers or symbols are selected;

Separate display board for numbers called.

(6) The licensee must have a separate display board, visible to the players, for displaying numbers called. The numbers must be constantly displayed until the game is completed: Provided, That for purposes of this section, alternative displays may be utilized in lieu of a flashboard, as required by WAC 230-20-240, if the numbers are displayed on the electronic flashboard during all number selection periods; ((and))

Posting requirements.

(7) The requirements of what constitutes a completed game must be documented and clearly posted for player review; and

Instant winner games.

(8) Instant winner games may be operated only as authorized in WAC 230-20-241(2).

Assistance for Persons with Disabilities: Contact Receptionist by March 24, 2000, TDD (360) 586-4224.

Submit Written Comments to: No further written comments are being accepted.

Date of Intended Adoption: April 4, 2000.

February 2, 2000

Pete A. Butkus
Executive Director

PROPOSED

WSR 00-04-100

PROPOSED RULES

PUBLIC WORKS BOARD

[Filed February 2, 2000, 11:52 a.m.]

Continuance of WSR 00-01-089.

Title of Rule: Ethics in public service.

Purpose: To set forth standards of ethical conduct in the furtherance of chapter 42.52 RCW.

Statutory Authority for Adoption: RCW 43.155.040(4).

Statute Being Implemented: Chapter 42.52 RCW.

Hearing Location: Wyndham Garden Hotel, 18118 Pacific Highway South (International Boulevard), SeaTac, WA, on April 4, 2000, at 8:30 a.m.



WSR 00-04-085

EXPEDITED ADOPTION

DEPARTMENT OF ECOLOGY

[Order 00-02—Filed February 2, 2000, 8:50 a.m.]

Title of Rule: Chapter 173-98 WAC, Uses and limitations of the water pollution control revolving fund.

Purpose: Allow ecology to offer lower interest rates on water quality loans to local governments.

Other Identifying Information: Made possible due to financial health of the state revolving fund.

Statutory Authority for Adoption: Chapter 90.50A RCW, Water pollution control facilities—Federal capitalization grants.

Statute Being Implemented: Chapter 90.50A RCW, Water pollution control facilities—Federal capitalization grants.

Summary: This amendment changes the way ecology calculates the interest rates and terms, lowering the maximum base rate and making it possible for ecology to lower the base rate further when analysis shows that a lower rate will not endanger the perpetuity of the loan fund. The lower rate will benefit the local governments and other groups who receive funding under the program.

Reasons Supporting Proposal: Lower rates will benefit local governments, and analysis of the fund by a third-party bond counsel showed that the perpetual health of the fund could be assured at lower interest rates.

Name of Agency Personnel Responsible for Drafting: Tim Hilliard, Lacey, (360) 407-6429; Implementation and Enforcement: Brian Howard, Lacey, (360) 407-6510.

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: The entire rule manages the full spectrum of activities of the Washington state water pollution control revolving fund (SRF), a loan program that offers \$40-\$50 million each year for low-interest or interest-free loans to local governments, special districts and tribes. The money may be used for water pollution control facilities or activities.

This amendment changes the way ecology calculates the interest rates and terms, lowering the maximum base rate and making it possible for ecology to lower the base rate further when analysis shows that a lower rate will not endanger the perpetuity of the loan fund.

The lower rate will benefit the local governments and other groups who receive funding under the program.

Proposal Changes the Following Existing Rules: This amendment changes the way ecology calculates the interest rates and terms, lowering the maximum base rate and making it possible for ecology to lower the base rate further when analysis shows that a lower rate will not endanger the perpetuity of the loan fund.

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, PRE-

PARE 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, 98504-7600, AND RECEIVED BY April 4, 2000.

January 30, 2000

Daniel J. Silver

Deputy Director

AMENDATORY SECTION (Amending Order 98-10, filed 11/24/98, effective 12/25/98)

WAC 173-98-030 How, and under what conditions, can money from the state water pollution control revolving fund be used? (1) Uses of the money. The state water pollution control revolving fund (SRF) may be used for the following purposes:

(a) To accept and retain funds from capitalization grants provided by the federal government, state matching funds appropriated in accordance with chapter 90.50A RCW, payments of principal and interest, and any other funds earned or deposited;

(b) To make loans to applicants in order to finance the planning, design, and/or the construction of water pollution control facilities, make loans to applicants for the implementation of nonpoint source pollution control management programs (which includes planning and implementing elements of the nonpoint source pollution assessment and management program), and make loans to applicants for the development and implementation of a comprehensive estuary conservation and management plan, subject to the requirements of the act;

(c) To provide loans for up to twenty years reserve capacity for water pollution control facilities;

(d) To buy or refinance the debt obligations incurred by applicants after March 7, 1985, for the construction of water pollution control facilities. (March 7, 1985, was the date that the amendments adding Title VI to the act were first considered by Congress. Any refinancing agreements must be for construction initiated after that date according to federal and state law);

(e) To guarantee or purchase insurance for local obligations where such an action would improve credit market access or reduce interest rates;

(f) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, if the proceeds of those bonds will be deposited in the fund; and

(g) To finance the reasonable costs incurred by the department in the administration of the account as authorized by the act and chapter 90.50A RCW.

(2) Policies for establishing the terms of financial assistance. Recipients' interest rates will be based on the average market interest rate. The average market interest rate will be based on the daily market rate published in the *Bond Buyer's Index* for tax exempt municipal bonds. (~~The average market~~

EXPEDITED ADOPTION

rate will be calculated three months before the SRF funding cycle begins using the daily market interest rate for those months. The average market interest rate will be recalculated three months before the Draft IUP is issued, based on the daily market interest rate for those months. If that interest rate is at least 0.1 percent below the previously calculated average market interest rate, recipients' interest rates will be based on the lower average market interest rate rounded to the nearest 0.1 percent. Recipients will not receive an interest rate higher than the interest rate established at the beginning of the funding cycle)) for the period from sixty to thirty days before the SRF annual funding application cycle begins, using the daily market interest rate for that period.

Loan terms and interest rates are as follows:

Repayment Period	((Project Duration))	Interest Rate
((Up to five years:))	((Projects must be completed in less than two years from the effective date of the SRF loan agreement to project completion.))	((Zero percent interest rate.))
Up to five years:	((Projects that take two years or more to complete from the effective date of the SRF loan agreement to project completion.))	((Forty) Thirty percent of the average market rate.
More than 5 but ((less)) no more than ((15)) 20 years:	((Not applicable.))	Sixty percent of the average market rate.
((15 to 20 years:	Not applicable.	Seventy-five percent of the average market rate.))

The director of the department of ecology or her/his designee may approve lower interest rates for annual funding application cycle if a financial analysis of the fund demonstrates that lower interest rates for that year are not detrimental to the perpetuity of the fund.

(3) Financial hardship assistance for facilities construction.

(a) Financial hardship assistance may be available to loan recipients for the existing residential need portion of a water pollution control facilities construction project if the project will cause a residential sewer user charge in excess of 1.5 percent of the median household income. Median household income is based on census data. Median household income data is updated yearly based on inflation. If median household income data is not available for a community the department will allow a local government to conduct a scientific survey to determine the median household income.

(b) The need for hardship assistance is calculated on water pollution control facilities construction costs associated with existing residential need at the time an application for funding is received by the department. The analysis does not include costs for growth. For example, if an applicant applies for ten million dollars to finance facilities construction costs, where six million dollars is for existing residential need and the remaining four million dollars is for growth, the hardship analysis would be based on the six million dollars for existing residential need.

(c) If the department determines that financial hardship exists, it may structure loan agreements with terms to help keep residential user charges below the financial hardship level for the existing residential need, if possible. Hardship terms may include lengthening the repayment period to a maximum of twenty years, lowering the interest rate, or a combination of a lower interest rate and an extended term.

(d) For some facilities projects, financial hardship cannot be established using residential user fees as a percent of median household income. In these situations, financial hardship determinations will be made on a case-by-case basis.

(e) If an applicant is requesting financial hardship assistance, it should submit a completed financial hardship analysis form with its application for financial assistance.

EXPEDITED ADOPTION

WSR 00-04-006
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed January 20, 2000, 11:06 a.m., effective March 1, 2000]

Date of Adoption: January 20, 2000.

Purpose: To simplify the language, clarify exemptions, to clarify food stamp penalties in a comparable program. The penalty for applicants who quit a job without a good reason begins from the date of application instead of the date of quit. The only time the department can end a disqualification for a voluntary quit without good cause is if the client becomes exempt. Two separate WACs need the same definition for students enrolled in any recognized school.

Citation of Existing Rules Affected by this Order: Amending WAC 388-444-0015, 388-444-0035, 388-444-0055, 388-444-0065, and 388-444-0075.

Statutory Authority for Adoption: RCW 74.04.050 and 74.04.510.

Adopted under notice filed as WSR 99-24-050 on November 29, 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 5, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 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 5, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 0.

Effective Date of Rule: March 1, 2000.

January 20, 2000

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 388-444-0015 When are clients ((who are)) not required to register for work or participate in FS E&T (exempt clients)((s))? You (as a client((s))) are not required to register for work or to participate in FS E&T ((are those who are)) if you meet any of the following conditions:

(1) Age sixteen or seventeen and not the head-of-household and:

(a) Attending school (such as high school or GED programs); or

(b) Enrolled at least half time (as defined by the institution) in a program under temporary assistance for needy families (TANF), a program under The Workforce Investment Act, (formerly the Job Training Partnership Act (JTPA)), a

program under section 236 of the Trade Act of 1974, or other state or local employment and training programs (~~(at least half time)~~).

(2) Determined to be physically or mentally unable to work;

(3) Responsible for the care of a dependent child under six years of age or of ~~((an))~~ a person determined to be incapacitated ((person));

(4) Applying for or receiving unemployment compensation (UC);

(5) Participating in an employment and training program under TANF;

(6) Employed or self-employed person working thirty hours or more per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty~~((-- This includes migrant and seasonal farm workers under contract or agreement with an employer));~~

(7) ~~((Enrolled as a student as))~~ Students eighteen or older enrolled at least half time as defined by the institution in:

(a) Any accredited school;

(b) Training program; or

(c) An institution of higher education. Students enrolled in higher education must follow the student criteria as defined in chapter 388-482 WAC, Student status((s)).

(8) Regularly participating in a drug addiction or alcoholic treatment and rehabilitation program.

AMENDATORY SECTION (Amending WSR 99-07-024, filed 7/31/98 [3/10/99], effective 9/1/98 [4/10/99])

WAC 388-444-0035 ~~((Clients who are))~~ When am I (able-bodied adult with no dependents) exempt from ABAWD provisions((s))? ~~((A client is))~~ You are exempt from the ABAWD rules provided in WAC 388-444-0030 ((when the client is)) if you are:

(1) Under eighteen or fifty years of age or older;

(2) Determined to be physically or mentally unable to work;

(3) A parent or other member of a household with responsibility for a dependent child under eighteen years of age or ~~((an))~~ a person determined to be incapacitated ((person));

(4) ~~((A))~~ Pregnant ((woman));

(5) Living in an ~~((exempt))~~ area approved as exempt by U.S. Department of Agriculture; ((or))

(6) ~~((Otherwise exempt under food stamp employment and training as follows:~~

~~((a)))~~ Complying with the work requirements of an employment and training program under temporary assistance for needy families (TANF);

~~((b)))~~ (7) Applying for or receiving unemployment compensation;

~~((c--A))~~ (8) Students enrolled at least half time as defined by the institution in:

(a) Any ((recognized)) accredited school; ((or

~~((d)))~~ (b) Training program; or

(c) Institution of higher education. A student enrolled in higher education must follow the student criteria defined in chapter 388-482 WAC.

(9) Participating in a chemical dependency treatment program; ~~(or~~

~~(e))~~ (10) Employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate multiplied by thirty hours~~(-~~

~~(7))~~;

(11) Eligible for one of the annual ~~((FNS))~~ federal-approved exemption slots under what is called the fifteen percent exemption rule.

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

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-444-0055 ~~((FS E&T disqualifications.))~~

What are the penalties for refusing or failing to comply?

(1) ~~((A nonexempt client who refuses or fails to comply with the requirements of the FS E&T program without good cause as provided in WAC 388-444-0050, is disqualified and cannot receive food assistance. The disqualified client is))~~ If you are nonexempt you must follow the food assistance work requirements as defined in WAC 388-444-0005 or 388-444-0030 unless you have good cause as defined in WAC 388-444-0050. If you do not follow these rules, you will become an ineligible assistance unit member as provided in WAC 388-450-0140. The remaining members of the assistance unit continue to be eligible for food assistance.

(2) ~~((The client is disqualified))~~ If you do not follow these rules unless you have good cause, you cannot receive food assistance for the following ((minimum)) periods of time and until ((the client complies)) you comply with program requirements:

(a) For the first failure to comply, one month;

(b) For the second failure to comply, three months; and

(c) For the third or subsequent failure to comply, six months.

(3) ~~If ((a client becomes)) you become exempt under WAC 388-444-0015((, a disqualification ends when the client has served the one, three, or six month disqualification penalty period and if required, is registered for work))~~ and are otherwise eligible, you may begin to receive food assistance.

(4) ~~((A nonexempt client disqualified under any of the following conditions is also disqualified under FS E&T and))~~ If you are nonexempt and you do not comply with the work requirements of the following programs, you cannot receive food assistance:

(a) ~~((Under))~~ WorkFirst ~~((sanction as provided in chapter 388-310 WAC));~~

(b) ~~((Disqualified from receiving))~~ Unemployment compensation ~~((for failure to comply with requirements comparable to FS E&T requirements; or));~~

(c) ~~((Sanctioned for failing to comply with work requirements under))~~ The refugee cash assistance program ~~((as provided in chapter 388-466 WAC)).~~

(5) ~~((At the end of a disqualification period, a client may))~~ Within ten days after learning of your refusal to participate in your program, the financial worker will send you a notice that your food assistance will end unless you comply with your program requirements.

(6) If you do not comply within ten days, you will be issued a notice disqualifying you from receiving food assistance until you comply with your program, or until you meet the FS E&T disqualification requirements in subsection (2) of this section.

(7) After the penalty period in subsection (2) of this section is over, and you have complied with your program requirements, and you are otherwise eligible, you may receive food assistance:

(a) If you are alone in the assistance unit and apply to reestablish eligibility((-

~~(6) Each client has)); or~~

(b) If you are a member of an assistance unit, you may resume receiving food assistance,

(8) During the penalty period, if you begin to participate in one of the programs listed in subsection (4)(a) through (c) and that penalty is removed, the FS E&T disqualification also ends. If you are otherwise eligible, you may begin to receive food assistance.

(9) You have a right to a fair hearing as provided in WAC 388-08-413.

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

WAC 388-444-0065 ~~((Quitting a))~~ **What happens if I quit my job((,))?** (1) ~~((A client who quits their most recent job without good cause is))~~ You are not eligible for food assistance if you quit your current job without good cause as defined in WAC 388-444-0070, and you are in one of the following categories:

(a) ~~((The client was))~~ You were working twenty hours or more per week or the job provided weekly earnings equal to the federal minimum wage multiplied by twenty hours; ~~((and))~~

(b) The quit ~~((occurred))~~ was within sixty days ~~((prior to application))~~ before you applied for food assistance or any time ~~((thereafter))~~ after;

(c) At the time of quit~~((, the person))~~ you were an applicant and would have been required to register for work as defined in WAC 388-444-0010;

(d) If you worked or you were self-employed and working thirty hours a week or you had weekly earnings at least equal to the federal minimum wage multiplied by thirty hours.

(2) ~~((A client is))~~ You are not eligible to receive food assistance if ((the client has)) you have participated in a strike against a federal, state or local government and ((has lost their)) have lost your employment because of such participation.

AMENDATORY SECTION (Amending WSR 99-07-024, filed 7/31/98 [3/10/99], effective 9/1/98 [4/10/99])

WAC 388-444-0075 **What are the disqualification((s)) periods for quitting a job without good cause((,))?** (1) ~~((the client))~~ you are an applicant who quits a job without good cause((-

~~(a) For applicants, the application is denied and the penalty in subsection (2) of this section is applied beginning with the day of quit; or~~

~~(b) For clients) sixty days before applying for food assistance, the department will deny your application. The penalty period in subsection (3) of this section begins from the date of application.~~

~~(2) If you are already receiving food ((stamps, the penalty)) assistance and you quit your job without good cause, the department must send you a letter notifying you that you are going to be disqualified from food assistance. The disqualification in subsection ((2)) (3) of this section begins the first of the month following the notice of adverse action.~~

~~((2) The client is)) (3) You are disqualified for the following minimum periods of time and until the conditions in subsection ((3)) (4) of this section are met:~~

- ~~(a) For the first quit, one month;~~
- ~~(b) For the second quit, three months; and~~
- ~~(c) For the third or subsequent quit, six months.~~

~~((3) Eligibility may be established during a disqualification period, if the client is otherwise eligible and:~~

~~(a) Secures new employment that has a salary or hours comparable to the job which was quit; or~~

~~(b) Secures a comparable job at less hours or at a lower salary;~~

~~(4) The client may re-establish eligibility after the disqualification, if otherwise eligible by:~~

- ~~(a) Getting a new job;~~
- ~~(b) In nonexempt areas, participating in the FS E&T program;~~
- ~~(c) Participating in Workfare as provided in WAC 388-444-0040;~~
- ~~(d) Becoming exempt as provided in WAC 388-444-0015, 388-444-0020, or 388-444-0035;~~
- ~~(e) Applying for or receiving unemployment compensation; or~~
- ~~(f) Participating in WorkFirst.~~

~~(5) If a disqualified client moves))~~

~~(4) You may re-establish eligibility after the disqualification, if otherwise eligible by:~~

- ~~(a) Getting a new job;~~
- ~~(b) In nonexempt areas, participating in the FS E&T program;~~
- ~~(c) Participating in Workfare as provided in WAC 388-444-0040.~~

~~(5) The department can end the disqualification period if you become exempt from the work registration requirements as provided in WAC 388-444-0015 unless you are applying for or receiving unemployment compensation (UC), or participating in an employment and training program under TANE.~~

~~(6) If you are disqualified and move from the assistance unit and join((s)) another assistance unit, ((the client)) you continue((s)) to be treated as an ineligible member of the new assistance unit for the remainder of the disqualification period.~~

~~(7) If you are disqualified and move to a FS E&T exempt area, you must serve the remainder of the disqualification period.~~

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

WSR 00-04-007

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed January 20, 2000, 11:19 a.m.]

Date of Adoption: January 12, 2000.

Purpose: To make a technical correction that brings the rule into line with state law with regard to mitigation payments.

Citation of Existing Rules Affected by this Order: Amending WAC 180-27-032.

Statutory Authority for Adoption: RCW 28A.525.020.

Adopted under notice filed as WSR 99-24-120 on December 1, 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 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 19, 2000

Larry Davis

Executive Director

AMENDATORY SECTION (Amending WSR 94-01-030, filed 12/6/93, effective 1/6/94)

WAC 180-27-032 Growth impact fees and mitigation payments. Notwithstanding the financial requirements of WAC 180-27-030, districts may use growth impact fees as provided for in RCW 82.02.020, 82.02.050 through 82.02.100, 58.17.060 and 58.17.110 to assist in capital construction projects. The impact fees collected pursuant to the above cited statutes, may be used by the district as local match funding for state assisted capital projects and may not be substituted for the amount of state assistance that would otherwise be provided for school capital projects. Mitigation payments as provided for in RCW 43.21C.060 of the State Environmental Policy Act may ((not)) be used by the district as local match funding ((not)) and may not be substituted for the amount of state assistance that would otherwise be provided for school capital projects.

WSR 00-04-008
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed January 20, 2000, 11:21 a.m.]

Date of Adoption: January 12, 2000.

Purpose: To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, or implement new rules resulting from EHB 1831. Enact new section WAC 180-29-068.

Statutory Authority for Adoption: RCW 28A.525.020.

Adopted under notice filed as WSR 99-24-121 on December 1, 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 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 19, 2000

Larry Davis

Executive Director

NEW SECTION

WAC 180-29-068 Construction management. A school district shall employ or contract for professional construction management pursuant to chapter 180-27 WAC. Construction managers shall have recent demonstrable experience on projects of similar size and type. Construction managers hired as employees of the district shall have employment agreements clearly stipulating the duties and responsibilities of the employee. Contracts between the school district and outside consultants shall stipulate the amount of the fee and the consultant's duties to be performed as in chapter 180-27 WAC.

WSR 00-04-011
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket No. TR-981101, General Order No. R-469—Filed January 21, 2000, 12:05 p.m.]

In the matter of amending/adopting/repealing chapters 480-60 and 480-66 WAC, relating to railroad companies—

Walkways and clearance rules and railroad companies—Sanitation rules.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 99-15-083, filed with the code reviser on July 20, 1999. The commission brings this proceeding pursuant to RCW 81.04.160 and RCW 80.01.040.

STATEMENT OF COMPLIANCE: This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C [43.21C] RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted chapter 480-60 WAC and chapter 480-66 WAC on October 13, 1999, except WAC 480-60-035. The commission adopted WAC 480-60-035 on December 22, 1999.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposal would repeal obsolete rules, establish minimum criteria for railroad employee walkways in railroad yards, require drinking water to be provided for all personnel regardless of work location, require sanitary conditions in locomotive eating areas, and require lockers for employee use in more locations.

REFERENCE TO AFFECTED RULES: This order amends the following sections of the Administrative Code: WAC 480-60-010 Application of rules, 480-60-020 Exemptions, 480-60-030 Definitions, 480-60-040 Overhead clearances, 480-60-050 Side clearances, 480-60-060 Track clearances, 480-60-080 Operation of excess dimension loads, and 480-60-090 Narrow gauge railroad transporting freight cars.

This order adopts the following new sections of the Administrative Code: WAC 480-60-012 Contacting the commission, 480-60-014 Rule of practice and procedure, 480-60-035 Walkways, 480-66-100 Definitions, 480-66-110 Application of chapter, 480-66-120 Contacting the commission, 480-66-140 Rules of practice and procedure, 480-66-150 Exemption from rules, 480-66-160 Filing a complaint, 480-66-170 Reporting requirements, 480-66-200 General obligations, 480-66-210 Locomotive cabs and cabooses, 480-66-220 Stationary facilities, 480-66-230 Miscellaneous, 480-66-300 Drinking water, 480-66-310 Washing facilities, 480-66-320 Showers, 480-66-330 Dressing rooms and lockers, 480-66-400 General, 480-66-410 Water closets, 480-66-420 Urinals, 480-66-430 Chemical toilets, 480-66-440 Incinerator toilets, 480-66-450 Privies, 480-66-460 Specifications for toilet rooms, 480-66-470 Number of toilets required, 480-66-480 Supplies for toilets, 480-66-490 Location and types of toilets, 480-66-500 Eating places, 480-66-510 Lunch rooms, 480-66-520 Specifications for lunch rooms and eating places, 480-66-600 Specifications for all accommodations, and 480-66-620 Stationary facilities.

This order repeals the following sections of the Administrative Code: WAC 480-60-070 Marking of cars, 480-60-99002 Table—Class of highway, 480-60-99003 Diagram—Clearance diagram for underpass two-way highway traffic, 480-66-010 Definitions, 480-66-020 Water supply, 480-66-030 Toilets, 480-66-040 Eating places and lunch rooms, 480-66-050 Sleeping accommodations, 480-66-060 Cleanliness and maintenance, and

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480-66-070 General.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on October 7, 1998, at WSR 98-20-105.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the commission was opening an inquiry to review the rules in chapter 480-60 WAC, Railroad companies—Clearance and chapter 480-66 WAC, Railroad companies—Sanitation, in accordance with Executive Order 97-02 and would consider issues related to workplace health and safety. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all railroad companies operating in the state of Washington, the commission's list of transportation attorneys, and those people who have identified themselves as having an interest in transportation rule makings.

Pursuant to notice, the commission held three rule-making workshops on November 9, 1998, January 7, 1999, and April 20, 1999. The workshops were attended by representatives from the Brotherhood of Locomotive Engineers (BLE), the United Transportation Union (UTU), the Burlington Northern Santa Fe Railway (BNSF), the Union Pacific Railroad (UP), and the Columbia Basin Railroad. Workshop discussions and proposed rule drafts included walkways, meal periods, lockers and dressing rooms, locomotive toilet cleanliness, refrigerators and microwaves on locomotives, and heat requirements on cabooses.

The workshop discussions and proposed rule drafts concerning clearance rules in chapter 480-60 WAC focused mostly on language, format, and repealing sections that are no longer valid in the current environment. Rules governing excess height loads were pared substantially because railroad employees are no longer allowed to walk on train roof tops. The rules governing the marking of excessive width loads were also eliminated at the suggestion of the American Association of Railroads and after railroad management and unions concurred.

The inclusion of walkway rules in chapter 480-60 WAC were also discussed at workshops and in written comments. The unions and staff believe a walkway rule with objective standards is needed while the railroad companies do not believe a rule is necessary. Further, the railroad companies believe any walkway rule is preempted at the federal level.

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) and small business economic impact statement (SBEIS) on July 20, 1999, at WSR 99-15-083. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 99-15-083 at 9:30 a.m., Wednesday, September 22, 1999, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

COMMENTERS (WRITTEN COMMENTS): The commission received written comments jointly from the BNSF and UP which questioned the need for a walkway rule and asserted that the walkway issue has been preempted at the federal

level. BNSF and UP rely on authorities which acknowledge that the Federal Railroad Association (FRA) has not issued a specific rule on walkways. BNSF and UP argue that walkways are subsumed by the larger subject of roadbeds contained in Subpart B and Subpart D of the FRA's track safety standards. 49 C.F.R. §§213.31 et seq. Staff believes that the FRA's standard for roadbeds does not address the same safety concerns as the proposed walkway rule. As a result, staff believes that the proposed walkway rule is not preempted by federal action. (See commission staff's September 22, 1999, Open Meeting Memorandum, Section 6.a., for a detailed discussion of preemption.) Staff submits that need for walkway rules has been established from commission staff investigator knowledge, complaints which are included in the public files, and documents submitted by the UTU. The UTU submitted written comments requesting a more stringent walkway rule than the one proposed by staff. Staff believes a more stringent walkway rule may be excessive. Both groups verbally restated their positions at the June 23, 1999, open meeting.

RULE-MAKING HEARING: The proposed rules, including the walkway rule, were considered for adoption, pursuant to the notice, at a rule-making hearing scheduled during the commission's regularly scheduled open public meeting on September 22, 1999, before Chairwoman Marilyn Showalter and Commissioner William R. Gillis. The commission heard oral comments from Mike Rowswell representing commission staff, Tom Retterath representing the UTU, Alan Bridges representing BLE, and David Reeve representing BNSF. Lawrence Mann, a Washington, D.C. attorney appearing on behalf of the UTU, provided oral comments in support of staff's position on preemption. Jeff Goltz of the Attorney General's Office provided information on the issue of preemption. The matter was continued until October 13, 1999, due to concerns raised regarding staff's proposed walkway rule.

RULE-MAKING HEARING CONTINUED: The rule proposal was considered for adoption at the October 13, 1999, rule-making hearing scheduled during the commission's regularly scheduled open public meeting before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner William R. Gillis. The commission approved the adoption of all rules except WAC 480-60-035 Walkways. The commission heard oral comments from Kim Dobyns representing commission staff. Staff requested additional time to meet with interested parties and revise the SBEIS concerning proposed WAC 480-60-035. No other interested person made oral comments. The commission continued the hearing on the walkway rule to November 30, 1999.

MEETINGS OR WORKSHOPS; ORAL COMMENTS: Staff held a workshop on November 9, 1999, to discuss proposed WAC 480-60-035 with interested persons and to invite participation regarding what should be measured in the amended SBEIS. Representatives from the UTU, BNSF, UP, the Columbia Basin Railroad, and the Palouse River and Coulee City Railroad attended the workshop. While the railroads continue to question the need for the rule and still believe walkways may be preempted at the federal level, they offered alternatives that would be acceptable if a rule must be adopted. The union also still believes more stringent rules are needed but also offered alternatives that may be acceptable. Staff considered

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the alternatives proposed by the union and the railroads. Staff incorporated some of these proposals, such as adding native material as an acceptable surface material for walkways, changing the measurement standards to more closely reflect those in use in the industry at the present time, restricting the rule to apply to railroad yards only, and incorporating other clarifying changes suggested by the workshop participants. Staff did not incorporate more restrictive changes that were recommended by the union because staff did not believe the public record supported more stringent rules.

The commission received comments concerning the elements to be measured in the amended SBEIS. Staff prepared a survey instrument based on those comments to all railroad companies in Washington state. Staff redrafted the proposed walkway rule and sent it and the survey to all parties on November 23, 1999, for further comment.

WRITTEN COMMENTS AND SBEIS RESPONSE: The commission received written comments from the UTU again urging more stringent rules. In a joint letter, BNSF and UP again stated their belief that there is no need for a walkway rule and that state action is likely preempted by federal law. However, the railroads indicated that the November 23, 1999, draft rule addressed many of the railroads' concerns.

Two short line railroad companies submitted SBEIS information in response to staff's survey. Both indicated that strict compliance with the walkway rule could be costly. The Class I railroads did not submit SBEIS information. Staff believes that immediate compliance in all areas would be difficult for Class I railroads as well as short lines. Staff proposed mitigating language to address hardship in complying with the rules.

RULE-MAKING HEARING CONTINUED: Proposed WAC 480-60-035 Walkways, was continued with direction for a status report to be presented before the commission on November 30, 1999. At the November 30, 1999, open meeting, the commission continued the adoption hearing of WAC 480-60-035 until 9:30 a.m. Wednesday, December 22, 1999, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA.

RULE-MAKING HEARING ADOPTION: Proposed WAC 480-60-035 Walkways was considered for adoption during the commission's regularly scheduled open public meeting on December 22, 1999, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and Commissioner William R. Gillis. The commission heard oral comments from Mike Rowswell representing commission staff and from Tom Retterath representing the UTU. Mr. Retterath urged the commission to adopt staff's proposed WAC 480-60-035. The commission adopted WAC 480-60-035 Walkways, on December 22, 1999. No other interested person made oral comments.

COMMISSION ACTION: After considering all of the information regarding this proposal, the commission adopted, amended and repealed the proposed rules with the changes described below.

CHANGES FROM PROPOSAL: The commission adopted the proposal with the following changes from the text noticed at WSR 99-15-083.

i. Chapters 480-66 and 480-60 WAC, nonsubstantive clarifying language, grammatical and punctuation changes.

ii. WAC 480-60-010(1), application of rules - language eliminated from the original rule reinserted at the request of UP to preserve the issue of whether the commission has jurisdiction over entities other than common carriers on clearance rule violations.

iii. WAC 480-60-035(1) eliminated requirement for walkways on the mainline around track side switch-throwing mechanisms. The UTU advocates a rule that addresses all areas in Washington state where its members are required to perform service on the ground, both in yards and outside of yards. The Class I railroads maintain that there is no need for any walkway rule. The Class II and III railroads agree with the Class I railroads and submit that it would result in a significant economic burden. The present rule is limited to walkways in yards based on the available evidence of need for a rule, the economic impact that a more extensive rule would have on all railroads, and recognition that experience gained with a limited rule can be used to determine whether a more extensive rule is necessary.

iv. WAC 480-60-035 (2)(a) adopted UP's suggestion for use of the railroad technical definition of one and one-half inch rock to meet the least restrictive of the railroad's standards. Added note recommending the use of three-quarter inch rock or less on switching leads in yards in response to UTU concern that larger size rock would be used.

v. WAC 480-60-035 (2)(c) added an option of native material for walkway surfaces in response to railroad concerns.

vi. WAC 480-60-035 (4) and (7) increased the restoration time from ten days to thirty days for repairing damaged walkways in response to railroad concerns.

vii. WAC 480-60-035(7) added the adverb "permanently" to modify "removed" to address railroads concern regarding a distinction between temporarily and permanently removing walkways on bridges and trestles.

viii. WAC 480-60-035 (8)(a) added compliance mitigation measures for Class I, II and III railroads to address concern regarding the financial burden of strict compliance.

ix. WAC 480-60-035 (8)(b) provided a mechanism for railroads to seek time extensions to bring walkways into compliance if experiencing financial hardship.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determines that WAC 480-60-070, 480-60-99002, 480-60-99003, 480-66-010, 480-66-020, 480-66-030, 480-66-040, 480-66-050, 480-66-060, and 480-66-070 should be repealed; WAC 480-60-010, 480-60-020, 480-60-030, 480-60-040, 480-60-050, 480-60-060, 480-60-080, and 480-60-090 should be amended; and WAC 480-60-012, 480-60-014, 480-60-035, 480-66-100, 480-66-110, 480-66-120, 480-66-140, 480-66-150, 480-66-160, 480-66-170, 480-66-200, 480-66-210, 480-66-220, 480-66-230, 480-66-300, 480-66-310, 480-66-320, 480-66-330, 480-66-400, 480-66-410, 480-66-420, 480-66-430, 480-66-440, 480-66-450, 480-66-460, 480-66-470, 480-66-480, 480-66-490, 480-66-500, 480-66-510, 480-66-520, 480-66-600, and 480-66-620 should be adopted as set forth in Appendix A, as rules of the Utilities and Transportation

Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 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 33, Amended 8, Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-60-070, 480-60-99002, 480-60-99003, 480-66-010, 480-66-020, 480-66-030, 480-66-040, 480-66-050, 480-66-060, and 480-66-070 are repealed, WAC 480-60-010, 480-60-020, 480-60-030, 480-60-040, 480-60-050, 480-60-060, 480-60-080, and 480-60-090 are amended, and WAC 480-60-012, 480-60-014, 480-60-035, 480-66-100, 480-66-110, 480-66-120, 480-66-140, 480-66-150, 480-66-160, 480-66-170, 480-66-200, 480-66-210, 480-66-220, 480-66-230, 480-66-300, 480-66-310, 480-66-320, 480-66-330, 480-66-400, 480-66-410, 480-66-420, 480-66-430, 480-66-440, 480-66-450, 480-66-460, 480-66-470, 480-66-480, 480-66-490, 480-66-500, 480-66-510, 480-66-520, 480-66-600, and 480-66-620 are adopted to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff memorandum, presented when the commission considered filing a preproposal statement of inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal, in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption and for rejection of proposed changes, as required by RCW 34.05.025.

DATED at Olympia, Washington, this 20th day of January, 2000.

Washington Utilities and Transportation Commission
Marilyn Showalter, Chairwoman
Richard Hemstad, Commissioner
William R. Gillis, Commissioner

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

WAC 480-60-010 Application of rules. (1) ~~((Subsequent to December 1, 1950, in all construction and reconstruction of tracks or structures adjacent thereto, on all railroads over which freight cars are transported or proposed to be transported, the following minimum clearances shall be allowed:))~~ The rules in this chapter apply to all common carrier railroad companies operating within the state of Washington, including any facilities or structures owned or operated by the railroad, and to the construction and reconstruction of tracks or structures adjacent thereto.

(2) A railroad company ~~((shall))~~ must not operate ~~((freight cars, locomotives or other rolling))~~ any equipment over tracks ~~((constructed subsequent to December 1, 1950, or tracks adjacent to buildings and structures constructed or reconstructed subsequent to that date, wherein))~~ where the clearances are less than those ~~((prescribed in))~~ required by these rules, unless a commission order has been entered granting an exemption or an exemption is contained in these rules.

(3) ~~((Where specific authority has been issued for deviation from these clearances for construction occurring subsequent to December 1, 1950, but prior to the effective date of the order in Cause No. T-8499 amending clearance rules of December 1, 1950, authority so issued shall remain in effect.~~

(4) ~~Overhead clearances authorized in these rules are applicable to tracks on which freight cars having a height to running board of fifteen feet six inches or less are transported. In the case of cars or loads exceeding fifteen feet six inches, WAC 480-60-070 and 480-60-080 must be complied with:~~

(5) ~~Side clearances ((authorized in these rules are applicable to tracks on which freight cars having an overall width))~~ are based on the assumption that equipment used on tracks is not greater than ten feet ten inches ((are transported)) wide. Height clearances are based on the assumption that equipment used on tracks is not higher than fifteen feet six inches. ((In the case of cars or loads exceeding)) If equipment exceeds ten feet ten inches in width, the railroad must comply with WAC ((480-60-070 and)) 480-60-080 ((must be complied with)).

NEW SECTION

WAC 480-60-012 Contacting the commission. You may contact the commission in writing, in person, by telephone, by e-mail, or by facsimile. The commission's location, mailing address, e-mail address and telefax number are found in WAC 480-09-100. The commission's internet home page address is found in WAC 480-04-050.

NEW SECTION

WAC 480-60-014 Rules of practice and procedure. The commission's rules governing administrative practices and procedures are in chapter 480-09 WAC. When a rule in this chapter conflicts with a rule in chapter 480-09 WAC, the rule in this chapter applies to railroad companies.

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

WAC 480-60-020 Exemptions. (1) When the overhead or side clearances between a track and any building, structure, or facility are less than the minimum (~~(prescribed in)~~) required by these rules, but ((where)) were lawfully created prior to ((the effective date thereof)) October 9, 1969, the minimum clearances ((prescribed herein shall)) required by these rules must be provided whenever the building, structure, or facility is relocated or reconstructed((:)). However, the ((Washington utilities and transportation)) commission will consider specific requests for the future continuance of ((heretofore)) these previously lawful clearances ((at such reconstructed building, structure or facility when application thereof has been made as provided in subsection (3)) when the railroad or owner or manager of the building, structure, or facility applies for an exemption under the provision set forth below.

(2) Where restricted clearances are ~~((necessary nothing herein shall be construed as preventing))~~ unavoidable, the following moves are allowed without requesting an exemption from the commission:

(a) The movement of material over tracks when ((such)) the material is ((necessary in)) needed for the construction or maintenance of ((such)) the tracks((, nor in));

(b) The movement of special work equipment used in the construction, maintenance or operation of the railroad((, provided such movements shall be carried on under the conditions as are necessary to provide for the safety of all concerned; nor shall these rules be applicable, provided reasonable safety precautions are observed;));

(c) Movements during periods of actual emergency due to wrecks, derailments, washouts and like conditions((:

(3) If in any particular case, exemption from any of the requirements herein is deemed necessary by the carrier or industry concerned, the Washington utilities and transportation commission will consider the application of such carrier or industry for such exemptions when accompanied by a full statement of the conditions existing and the reason why such exemption is asked. Any exemption so granted will be limited to the particular case covered by the application.

(4) The Washington utilities and transportation commission reserves the right to modify any of the provisions of these regulations in specific cases, when, in its opinion, safety of railroad employees, public safety, convenience or necessity would be served by so doing.

(5));

(d) All movements authorized in this subsection may be made only after all reasonable steps are taken to provide for the safety of all who could be harmed by the move.

(3) 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.

(4) 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.

(5) 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.

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

(7) Logging railroads, or any operation directly incident to logging, now subject to the provisions of the safety standards for logging operations in chapter 296-54 WAC, published by the division of safety of the department of labor and industries of the state of Washington, are exempted from these rules.

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

WAC 480-60-030 Definitions. ~~((1) The overhead clearance is that distance measured along a line which is perpendicular to and joins a horizontal plane passing through the top of the highest rail and the lowest point of the overhead structure or obstruction.~~

(2) The side clearance is the shortest distance from centerline of track to a structure or appurtenances such as downspouts, ladders, or other obstructions at the side of the track.

(3) The track clearance is the shortest distance between the centerlines of adjacent tracks.

(4) Height of a freight car is the distance between the top of rail and the top of running board.

(5) Width of a freight car is twice the distance from the centerline of the car to the extreme outside part thereof.

(6) Iceing platforms: The term "iceing platform" shall include structures used in performing the service of iceing, precooling, heating, ventilating and servicing of cars used in the handling of commodities requiring the above services.

(7) Constituted authority shall mean the commission.

(8) Overcrossing when used in this order means any point or place where a highway crosses a railroad by passing above the same. Clearances shall be as specified in WAC 480-60-040 (1) and (3).

(9) Undercrossing when used in this order means any point or place where a highway crosses a railroad by passing under the same. Existing laws pertaining to highways shall prevail.) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Car width" means twice the distance from the centerline of the car to its extreme outside part.

"Commission" means the Washington utilities and transportation commission.

"Iceing platforms" means structures used in performing the service of iceing, precooling, heating, ventilating and servicing of cars used in the handling of commodities requiring those services.

"Overcrossing" means any point or place where a highway crosses a railroad by passing above it.

"Overhead clearance" means the distance measured along a line which is perpendicular to and joins a horizontal plane passing through the top of the highest rail and a hori-

horizontal plane passing through the lowest point of the overhead structure or obstruction.

"Side clearance" means the shortest distance from centerline of track to a structure or appurtenances such as downspouts, ladders, or other obstructions at the side of the track.

"Track clearance" means the shortest distance between the centerlines of adjacent tracks.

"Walkways" means pathways located alongside or in the vicinity of a railroad track, or on a trestle or bridge, that provide an area for a railroad employee to perform duties associated with the track, trestle or bridge.

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

WAC 480-60-040 Overhead clearances.

- ~~((1) Overhead clearance in general 22'6"~~
- ~~((2) Overhead clearance in buildings 18'0")~~

(1) General rule. Overhead clearances shall be at least twenty-two feet six inches unless one of the provisions in this section applies.

(2) Buildings.

The overhead clearance inside of entirely enclosed buildings may be reduced to eighteen feet, ~~((provided that this clearance shall apply only to tracks terminating))~~ if the tracks terminate within the building ~~((, and further provided, that when))~~. When an overhead clearance of less than twenty-two feet six inches is established ~~((therein))~~ in a building, all cars, locomotives or other equipment ~~((shall be brought to a))~~ must stop before entering ~~((such enclosed building, the))~~ it. The conditions provided to require ~~((such))~~ the stop ~~((to be approved by constituted authority))~~ must be approved by the commission. Engine houses and car shops are exempt from these regulations.

~~((Note: Engine houses and car shops are exempt from these regulations.))~~

~~((3) ((Overhead clearance)) Trains in tunnels, under overcrossings, and on bridges.~~

Minimum overhead clearance in tunnels ~~((and through)), under overcrossings, and on bridges may be decreased to the extent defined by the half-circumference of a circle having a radius of eight feet and tangent to a horizontal line twenty-two feet six inches above top of rail at a point directly above the centerline of track.~~

~~((4) ((Overhead clearance--)) All other structures.~~

Minimum overhead clearance ~~((as prescribed in subsection (1) above))~~ may be decreased to the extent defined by the half-circumference of a circle having a radius of eight feet six inches and tangent to a horizontal line twenty-two feet six inches above top of rail at a point directly over the centerline of track.

(5) Overhead clearance of wires.

All overhead wires ~~((in general shall))~~ must have a minimum vertical clearance of not less than that specified by the safety rules for the installation and maintenance of electric supply and communication lines as provided by the rules for

electrical construction and the electrical and communication workers safety rules of the state of Washington.

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

WAC 480-60-050 Side clearances. (1) ~~((Side clearance in general - 8'6"~~

~~Note: To further reduce operational hazards, it is recommended that, wherever practicable, all posts, pipes, warning signs and other small obstructions be given a side clearance of ten feet.~~

~~Side clearance at platforms:))~~ General rule. Side clearances must be at least 8 feet 6 inches unless one of the provisions below applies. If exceptions in subsections (2) through (5) or (7) of this section apply, full side clearance of 8 feet 6 inches shall be provided on the opposite side of the track from the platform.

- ~~(2) Platforms - 8" or less above top of rail 4'8"~~
- ~~(3) Platforms - 4'0" or less above top of rail 7'3"~~

~~((Note: Full side clearance of 8'6" must be provided on the opposite side of the service track from the platform.))~~

~~(4) Platforms - 4'6" or less above top of rail - when used principally for loading or unloading refrigerator cars . . . 8'0"~~

- ~~(5) Icing platforms and supports 7'3"~~

~~((Note: Full side clearance of 8'6" must be provided on the opposite side of the service track from the platform.))~~

- ~~(6) ((Platforms other than above 8'6"~~

~~Note:))~~ A retractable platform ~~((s, either sliding or hinged,))~~ which ~~((are))~~ is attached to a permanent structure ~~((shall))~~ must be ~~((so))~~ designed so that when it is not in use no part of ~~((such retractable platform))~~ it shall fall within the clearance limits herein prescribed for a platform of that height above the top of the rail.

~~(7) Platforms - combinations of any above.~~

~~((Note:))~~ Platforms defined under (2) above may be combined with either (4) or (3) ~~((provided that))~~ if the lower platform ~~((presents))~~ has a level surface from a point not more than four feet eight inches from centerline of track to the face of the wall of the platform with which it is combined. No other combinations will be permitted.

~~(8) ((Platforms extension of existing platforms:~~

~~Note: Platforms which were constructed at lawful clearances prior to the effective date of this order may be extended at existing clearances upon approval of constituted authority.~~

- ~~(9) Side clearance--)) Bridges and tunnels 8'0"~~

~~((10))~~ (9) Bridges and tunnels - upper section (see WAC 480-60-040(3)).

Side clearance ~~((in through))~~ on bridges and in tunnels may be decreased to the extent defined by the half circumference of a circle having a radius of eight feet and tangent to a horizontal line twenty-two feet six inches above top of rail directly above centerline of track.

~~((11))~~ (10) Bridges - lower section and structures 4' high or less. ~~((Through))~~ Bridges ~~((supporting track affected)),~~ hand rails, water barrels and refuge platforms on bridges and trestles, water columns, oil columns, block signals, cattle guards and cattle chutes, or portions ~~((thereof))~~ of those items, four feet or less above top of rail may have clear-

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ances decreased to the extent defined by a line extending diagonally upward from a point level with the top of rail and five feet distant laterally from centerline of track to a point four feet above top of rail and eight feet distant laterally from centerline of track: Provided, That the minimum clearance for hand rails and water barrels ~~((shall))~~ must be seven feet six inches and the minimum clearance for fences of cattle guards ~~((shall))~~ must be six feet nine inches.

~~((Note:))~~ Unless previously approved, the clearances authorized in this subsection, except as provided for hand rails and water barrels, are not permitted on ~~((through))~~ bridges where the work of trainmen or yardmen requires them to be upon the decks of such bridges for the purpose of coupling or uncoupling cars in the performance of switching service on a switching lead.

~~((12) Side clearance - cattle guards and cattle chutes. (See subsection (11))~~

~~(13)(a) Side clearance - warehouse doors 8'6"~~

~~(b)) (11) Side clearance - engine house and car repair shop doors 7'6"~~

~~((14) Side clearance - hand rails on bridges and trestles. (See subsection (11))~~

~~(15)) (12) Side clearance - interlocking mechanism, switch boxes, ~~((ete))~~ and other similar devices projecting 4" or less above the top of the rail 3'0"~~

~~((Switch boxes, switch operating mechanism necessary for the control and operation of signals and interlockers projecting four inches or less above top of rail.~~

~~(16) Side clearance - mail cranes and train order stands when not in operative position 8'6"~~

~~(17) Side clearance - oil columns (see subsection (11)) 8'0"~~

~~(18)) (13) Side clearance - poles supporting trolley contact 8'3"~~

~~((Conductors supplying motive power to track affected of bracket construction.~~

~~(19) Side clearance - poles other than trolley poles - 8'6"~~

~~(20)) (14) Side clearance - signals and switch stands 3' high or less when located between tracks where not ~~((practicable))~~ reasonably possible to provide clearances otherwise prescribed in these rules 6'0"~~

~~((21)) (15) Side clearance - signals and switch stands other than above 8'0"~~

~~((22) Side clearance - tunnels. (See subsection (10)) - 8'0"~~

~~(23) Side clearance - water barrels on bridges (see subsection (11)).~~

~~(24) Side clearance - water columns. (See subsection (11)) 8'0"~~

~~(25)) (16) Side clearances on curved track. ((Note:)) Side clearances adjacent to curved track shall be increased as necessary to give the equivalent of tangent track clearances. As a general rule, the side clearance on curved track should be increased 1-1/2" for each degree of curvature.~~

~~((26)) (17) Side clearances - material or merchandise adjacent to tracks, ~~((. 8'6"~~~~

~~Note:))~~ No merchandise, material or other articles shall be placed or stored on ground or platforms adjacent to any track at a distance less than eight feet six inches from the centerline of track, except in cases of maintenance or emergency

when such material is to be used within a reasonable period of time or where local conditions make compliance with this ~~((note))~~ rule impossible.

~~((27)) (18) Clearances - car puller units and appurtenances.~~

~~((Note:))~~ Clearances ~~((shall be only as))~~ for car puller units and appurtenances must be approved ~~((on application to))~~ by the commission through the process set forth in WAC 480-62-020.

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

WAC 480-60-060 Track clearances. (1) Track clearances - in general 14' 0"

The minimum distance between the centerlines of parallel standard gauge railroad tracks, which are used or proposed to be used for transporting cars, engines, motors, or like equipment, ~~((shall))~~ must be fourteen feet, except as ~~((herein after prescribed))~~ set forth below.

(2) Track clearances - main and subsidiary tracks 15' 0"

The centerline of any standard gauge track, except a main track or a passing track, parallel and adjacent to a main track or a passing track, ~~((shall))~~ must be at least fifteen feet from the centerline of ~~((such))~~ the main track or passing track ~~((- Provided,))~~ however, ~~((That))~~ where a passing track is adjacent to and at least fifteen feet distant from the main track, any other track may be constructed adjacent to ~~((such))~~ the passing track with 14 feet clearance ~~((prescribed in subsection (1)).~~

(3) Track clearances - parallel team, house, or industry tracks 13' 0"

Minimum clearances between centerlines of parallel team, house, or industry tracks ~~((shall))~~ must be thirteen feet.

(4) Track clearances - parallel ladder or ladder and other track 20' 0"

The minimum clearance between centerlines of any standard gauge ladder track, constructed parallel to any other track, ~~((shall have a clearance of not less than))~~ must be twenty feet ~~((from the centerline of such other track)).~~

(5) Track clearances - existing tracks.

~~((Note:))~~ Tracks existing ~~((tracks))~~ prior to October 9, 1969, may be extended at clearances lawfully prescribed prior to ~~((the effective date of this order))~~ that date.

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

WAC 480-60-080 Operation of excess dimension loads. (1) ~~((Cars containing lading in excess of 15'6" high and/or 5'5" from centerline of car.~~

~~Each open top car containing lading of a height exceeding fifteen feet six inches above top of rail, or which extends laterally more than five feet five inches from the centerline of the car, the movement of which is hereby authorized, shall be marked, stenciled or placarded, and such markings maintained in a legible condition to read:~~

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~~"This car
EXCESS-
HEIGHT"~~

OF

~~"This car-
EXCESS-
WIDTH"~~

~~The words "EXCESS HEIGHT" or "EXCESS WIDTH" to occupy the greater portion of a space 7" x 10" enclosed within a 3/4" solid border. Letters and border to be of contrasting colors. All such required markings and placarding shall be placed on the side adjacent to the ladder or handholds near the floor line of the car at each of the four corners where practicable, and in addition one each of such signs shall be placed on each side of the load in a conspicuous position.~~

~~(2) Cars containing lading which extends laterally in excess of 5'5".~~

~~The movement of open top cars containing lading which extends laterally in excess of five feet five inches is hereby authorized only if the lading is of such a nature that it cannot practically be reduced in dimensions.~~

~~(3) Lading higher than 15'6" or extending laterally more than 5'5 1/2".~~

~~The movement of all open top cars having lading in excess of fifteen feet six inches in height, or which extends laterally in excess of five feet five and one-half inches from centerline of car will be authorized by written notice stating the total number of such cars and advising that no member of the train crew is required to ride on top of such high car or the side of any such wide car.~~

~~(4) A written notice shall be delivered to every train containing any car, the lading of which extends laterally in excess of 5'5 1/2" from the centerline of the car or in excess of 15'6" in height above top of rails, informing the crew of the train that the train includes such car or cars, stating the total number thereof and advising that no member of the train crew is required to ride on the side of any such wide car or top of any such high car.~~

~~(5)) No person may ride on the roof of any car, or on the side of an excess width car, or the side of a car with a load that extends more than 5'5" from centerline.~~

~~(2) The railroad company must provide written notice to the train stating the total number of cars with excess height or width.~~

~~(3) Notice to yard supervisors. Yard supervisors ((shall)) must be ((given notification)) notified sufficiently in advance of the arrival of ((such wide loads as described in subsection (3) as)) cars with excess height or width to enable them to take necessary precautions to safeguard employees in yard.~~

~~((6) Loads which cannot be passed over by employees.~~

~~Open top cars containing lading having an overall height in excess of fifteen feet six inches above top of rail, if otherwise in compliance with these requirements, and the nature of which precludes the possibility of employees passing over the cars, are exempt from the provisions of subsections (3), (4) and (5), but written notice must be given to all members of train crew informing them of the presence of such loads.~~

~~(7) Exemptions.~~

~~The common carrier railroads are hereby authorized to move excess height loads and width loads, as described in subsection (1) over roads or portions thereof, without com-~~

~~plying with the provisions of WAC 480-60-080, provided that clearances equivalent to the minimum herein prescribed for cars having a height of fifteen feet six inches and width of ten feet ten inches are maintained.))~~

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

WAC 480-60-090 Narrow gauge railroads transporting freight cars. (1) ~~((Overhead and))~~ Side clearances.

For the operation of equipment on narrow gauge tracks, ~~((the minimum overhead clearance shall provide a distance above the top of the highest car operated not less than that provided in these rules for cars fifteen feet six inches in height operated on standard gauge tracks;))~~ the side clearances and distances between centerlines of tracks ~~((shall))~~ must provide a distance from the sides of cars, or between the widest cars operated, not less than those distances ~~((herein))~~ provided by these rules for cars ten feet ten inches in width operated on standard gauge tracks.

(2) All other requirements of these rules, where applicable ~~((shall))~~, must be observed by narrow gauge railroads.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|--|
| WAC 480-60-070 | Marking of cars. |
| WAC 480-60-99002 | Table—Class of highway. |
| WAC 480-60-99003 | Diagram—Clearance diagram for underpasses two-way highway traffic. |

NEW SECTION

WAC 480-60-035 Walkways. (1) Walkways must be provided in yards where employees regularly work on the ground.

(2) Ease and safety of walking are the primary considerations for providing walkways. Ease and safety of walking and adequate track drainage are the primary considerations for selecting surface materials. Accordingly, walkways required by this rule must have a reasonably smooth surface and be maintained in a safe condition, without compromising track drainage. Any of the following are suitable surface materials:

(a) Crushed material may be used for walkways. The material must not exceed one and one-half inches in size. The term "one and one-half inches in size" has a specialized meaning. That meaning can vary from company to company within the industry. For purposes of this rule, the term will have the following meaning (note: Percentages refer to weight measurements):

100 percent of the material will pass through a one and one-half inch square sieve opening.

90 to 100 percent of the material will pass through a one inch square sieve opening.

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40 to 80 percent of the material will pass through a three-quarter inch square sieve opening.

15 to 60 percent of the material will pass through a one-half inch square sieve opening.

0 to 30 percent of the material will pass through a three-eighths inch square sieve opening.

0 to 10 percent of the material will pass through a #4 sieve (standard nomenclature in the industry).

0 to 5 percent of the material will pass through a #8 sieve.

0 to 0.5 percent of the material will pass through a #200 sieve.

Note: Smaller crushed material is preferable. It should be used where drainage and durability issues do not arise. Material that is three-quarter inch or less in size is recommended for switching leads in yards.

(b) Walkway surfaces may also be made of asphalt, concrete, planking, grating, or other similar material suitable for walking.

(c) Native materials may be used for a walkway surface if the materials provide a surface that is reasonably smooth and safe.

(3) Walkways must not have a grade or slope in excess of one inch of elevation for each eight inches of horizontal length in any direction, unless the geography of the area makes this impracticable.

(4) Walkways must be kept clear of vegetation, debris, mud, and other obstructions that constitute a hazard to railroad employees working on the ground. Standing water must be removed from walkways as soon as reasonably possible.

(5) When walkways are removed or damaged due to construction or emergencies, they must be restored within thirty days after construction is completed or the emergency ends.

(6) Walkways must be sufficiently wide to allow employees to safely perform all duties associated with the use of the walkways.

(7) Walkways on bridges and trestles existing on (effective date of this rule), must not be permanently removed without approval from the commission. Permission must be obtained by the process set forth in WAC 480-60-020. Walkways on bridges or trestles that are temporarily removed or damaged due to construction or emergencies must be restored within thirty days after construction is completed or the emergency ends.

(8)(a) Unless the commission identifies a serious safety condition on a walkway, Class I railroads must bring their walkways into compliance with this section within one year of the effective date of these rules, and Class II and Class III railroads must bring their walkways into compliance within five years of the effective date of these rules.

(b) If a railroad believes it will experience a serious financial hardship in bringing its walkways into compliance within the time allowed, it must submit to the commission in writing, an alternate proposal for bringing its walkways into compliance. The commission may grant an extension of time following a review of the railroad's alternate walkway compliance proposal.

PART 1 - GENERAL INFORMATION

NEW SECTION

WAC 480-66-100 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Bunk or section house" means the portion of any building in which employees are provided sleeping or living accommodations, except family dwellings.

"Caboose" means any car or coach used on a train to carry the train crew.

"Commission" means the Washington utilities and transportation commission.

"Company" means a common carrier railroad company as employer.

"Employee" means any person employed by a company.

"Incinerator toilet" means a toilet containing a receptacle for toilet waste to which intense heat is applied.

"Number of employees" means the maximum number of employees going on or coming off shift within any single hour.

"Office work area" means a yard office, station, depot, terminal, or freight, baggage and express office located on railroad property which is the usual place of employment for the performance of clerical or other work identified with office functions of the company.

"Railroads" means common carrier railroads.

"Sanitary" means free from things injurious to health, or effective in preventing or checking the effects of those things.

"Station" means a location where freight or passengers are ordinarily received and delivered, including all freight and express offices.

"Terminal" means a location where train crews and other employees are regularly required to report for duty.

"Toilets" means fixtures such as flush toilets, chemical closets, or privies used for the purpose of defecation.

"Usual place of employment" means the place where an employee works with a reasonable measure of continuity throughout the major part of the employee's company service.

"Yards" means yards, section headquarters, and locomotive and car shops.

NEW SECTION

WAC 480-66-110 Application of chapter. The rules in this chapter apply to all railroads operating within the state of Washington.

NEW SECTION

WAC 480-66-120 Contacting the commission. You may contact the commission in writing, in person, by telephone, by e-mail, or by facsimile.

The commission's location, mailing address, e-mail address, and telefax numbers are found in WAC 480-09-100. The commission's internet home page address is found in WAC 480-04-050.

NEW SECTION

WAC 480-66-140 Rules of practice and procedure.

The commission's rules governing administrative practices and procedures are in chapter 480-09 WAC. When a rule in this chapter conflicts with a rule in chapter 480-09 WAC, the rule in this chapter applies to railroad companies.

NEW SECTION

WAC 480-66-150 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.

NEW SECTION

WAC 480-66-160 Filing a complaint. Any interested person who believes that available sanitary or shelter facilities are inadequate or unsatisfactory under the rules in this chapter may file an informal or formal complaint with the commission pursuant to WAC 480-09-150 and 480-09-400 requesting the responsible party or parties to correct the condition. Upon investigating the complaint, the commission may issue an order, with or without hearing, directing that the conditions complained of be corrected.

NEW SECTION

WAC 480-66-170 Reporting requirements. Railroads must report to the commission, upon request, concerning the company's sanitation and shelter facilities and servicing programs required by these rules.

PART 2 - GENERAL SANITATION RULES

NEW SECTION

WAC 480-66-200 General obligations. (1) The company is responsible for providing employees with all items required by these rules.

(2) The company must, at all times, maintain all items required in these rules in proper working order and in a condition which is sanitary, free from vermin and rodents, and which is not offensive to a reasonable person, except when the items are taken out of service and are not accessible by employees.

(3) The company must establish a program to regularly review and service all items required in these rules to meet its obligations under subsections (1) and (2) of this section; however, implementing a program must not be a substitute for actual compliance with subsections (1) and (2) of this section.

NEW SECTION

WAC 480-66-210 Locomotive cabs and cabooses. (1) During use, locomotive cabs must be heated to a minimum of 50 degrees Fahrenheit.

(2) When required by the season of the year, doors and windows of all locomotives must be equipped with adequate protection to occupants from the elements by means of weather stripping, or other device sufficient to provide equally adequate protection.

(3) Cabooses must be maintained in a clean and sanitary condition.

(4) When required by the season of the year, doors, and windows of cabooses must be equipped with adequate weather stripping.

(5) Every caboose used in any train in this state, regardless of service, must be provided with a stove or other adequate means of heating. The company shall provide a sufficient supply of fuel for the trip or shift.

NEW SECTION

WAC 480-66-220 Stationary facilities. (1) Bed linen furnished by the railroad must be changed, and fresh, clean linen supplied at least once a week and for each new occupant.

(2) Adequate shelter must be furnished and maintained for watchmen. The shelter must be adequately heated, sealed and insulated against cold and inclement weather.

(3) Office work areas must be clearly lighted at all times during hours of use.

(4) Office work areas must be heated at all times during hours of use to a minimum of 65 degrees Fahrenheit.

(5) Office work areas must be provided with cross-ventilation when possible.

(6) Windows, ventilators and doors opening to the outside of office work areas must be properly screened during the seasons when insects are prevalent.

NEW SECTION

WAC 480-66-230 Miscellaneous. (1) Toilet rooms and washrooms must not be used for storage.

(2) Floors in all buildings and movable facilities must be maintained in a clean, and so far as reasonably possible, dry condition. Where wet processes are used, drainage must be maintained and false floors, platforms, mats or other dry

standing places must be provided wherever reasonably possible.

(3) Screens required by these rules must be of 16 mesh or equal.

(4) Suitable receptacles for the storage of waste and refuse must be provided wherever needed. They must be maintained in a sanitary condition. Receptacles used for moist or liquid waste must be made of a smooth finished surface, impervious to moisture. They must be kept covered and must be washed out as often as necessary to keep them clean.

(5) All sweepings, waste and refuse must be removed in a manner which avoids raising dust, and as often as necessary to keep all rooms used by employees clean.

(6) Toilet waste must not be discharged onto the ground surface from railroad cars within servicing area of yards. Those areas must be kept free of refuse, litter, debris, vermin and rodents.

(7) Adequate drainage must be provided where work is performed in repair yards or on repair tracks in the open or in open sheds or pits. Waste must not drain into any water of the state, nor contaminate the ground surface, but must be disposed of in a manner approved by the Washington state department of health.

PART 3 - WATER SUPPLY, DRESSING ROOMS AND LOCKERS

NEW SECTION

WAC 480-66-300 Drinking water. (1) An adequate supply of cool drinking water must be made available to all employees wherever they may be working.

(2) Drinking water must meet all standards of the Washington state department of health.

(3) Containers used to furnish drinking water must meet all specifications of the Washington state department of health and must be sterilized as often as necessary to assure a sanitary water supply.

(4) The common drinking cup is prohibited.

(5) Cross-connections between potable and nonpotable water supplies are prohibited. Nonpotable water supplies must be clearly labeled as not fit for drinking or washing.

NEW SECTION

WAC 480-66-310 Washing facilities. (1) An adequate number of wash basins or lavatories for maintaining personal cleanliness must be provided within reasonable access for all employees normally assigned to office work areas, stations, yards, terminals, shops, engine houses, lunch rooms, bunk houses, and section houses. All other employees must be provided an adequate means to maintain personal cleanliness for eating purposes and after defecation or urination.

(2) The following table must be used to determine the adequacy of washing facilities (twenty four inches of trough or circular wash basin is considered the equivalent of one wash basin):

Number of Employees	Minimum Number of Facilities
1 to 10	1 basin
11 to 24	2 basins
25 to 49	3 basins
50 to 100	5 basins
Over 100	5 basins plus 1 more for each additional 25 employees

(3) At least one wash basin must be located in or adjacent to each toilet room.

(4) Wash basins or lavatories must be made of smooth finished material, impervious to moisture.

(5) Supplies for wash basins or lavatories must include:

(a) Hot and cold running water to wash basins.

(b) Mechanical drying facilities or individual towels, either paper or cloth. The use of common towels is prohibited.

(c) Waste receptacles for used paper towels.

(d) Soap or other suitable cleansing agent at each wash basin.

NEW SECTION

WAC 480-66-320 Showers. Showers must be required when the commission determines that they are necessary at a specific location to protect employees whose work involves exposure to poisonous, infectious or irritating material or to excessive dirt, heat fumes, vapors, or other materials or substances injurious to health. Adequate locker and dressing room facilities will be provided with showers. Specifications for showers will be determined for each location when the need for showers is established.

NEW SECTION

WAC 480-66-330 Dressing rooms and lockers. (1) Separate dressing rooms must be provided for men and women in all places of employment where it is necessary for employees to change clothing. Dressing rooms must be separated from toilet rooms by solid partitions and doors. Dressing rooms must have at least eighty square feet of floor space. If more than ten employees, at least an additional four square feet must be provided for each additional employee. Benches must be provided. Dressing rooms must be properly lighted, heated to a minimum of 65 degrees Fahrenheit, and adequately ventilated. Where reasonably possible, cross-ventilation must be provided.

(2) Individual metal lockers must be provided where dressing rooms are required. Lockers must also be provided for each employee who must store work-related items at any time. Lockers must be convenient for employee access and must be provided where needed, even if one locker must be provided to an employee at each end of a run. Lockers must be at least twelve inches wide, eighteen inches deep and seventy-two inches high, exclusive of legs or other base. The lockers must be equipped with a shelf and with at least one clothes hook for each side or equivalent hanger bar, and also

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with sufficient openings in the door for purposes of ventilation.

PART 4 - TOILETS

NEW SECTION

WAC 480-66-400 General. (1) Where running water and sewer or septic tank connections are reasonably available, flush-type toilets and urinals must be maintained.

(2) Chemical toilets or privies may only be used where it is impractical to install inside toilet and urinal facilities.

(3) No privy, urinal, cesspool, septic tank or other receptacle for human excrement must be used which directly or indirectly drains or discharges over, into or upon the surface of the ground or into the waters of the state.

NEW SECTION

WAC 480-66-410 Water closets. (1) Every flush toilet must have a rim flush bowl or be so constructed as to prevent the accumulation of fecal matter on the bowl. The bowl must be constructed of a smooth finished material impervious to moisture.

(2) Every bowl must be installed in a manner which allows surroundings and floor space to be easily cleaned.

(3) No pan, plunger or wash-out water closets are permitted except that pan or double-pan types are permitted for movable facilities.

(4) Every flush toilet must have a separate hinged seat made of a smooth finished material, other than metal, impervious to moisture.

NEW SECTION

WAC 480-66-420 Urinals. (1) Every urinal must be made of a smooth finished material impervious to moisture.

(2) Every urinal must be located within a toilet room.

(3) Twenty-four inches of trough urinal is equivalent to an individual urinal.

(4) Wherever a slab urinal is installed, the floor must be sloped toward the urinal drain for a distance of at least twenty-four inches in front of the urinal. Adequate splash guards must be installed.

(5) Every urinal must be flushed from a water-supplied tank or through valve, and flush valves must be installed with an approved back-flow preventer. Every tank must furnish an adequate quantity of water for each discharge for every fixture. In place of discharge from a tank or flush valve, water may be allowed to run continuously over slab or trough urinals.

(6) Clear floor space for each urinal or its equivalent must be at least two feet in width.

NEW SECTION

WAC 480-66-430 Chemical toilets. All chemical toilets installed must be of a type approved by the commission. Containers must be charged with chemical solution of proper strength and their contents must be agitated daily with proper

devices provided for that purpose. When containers are more than two-thirds full the contents must be disposed of in an approved manner. The stacks connecting the seats with the containers must be cleaned as often as is necessary to keep them in a clean and sanitary condition.

NEW SECTION

WAC 480-66-440 Incinerator toilets. (1) All incinerator toilets used on railroad equipment in the state of Washington must be of a type approved by the commission.

(2) The installation and method of venting must be approved by the commission.

(3) Clear and concise instructions must be provided by the railroad company to insure that the units are operated correctly.

NEW SECTION

WAC 480-66-450 Privies. (1) All privies must be located, constructed, and maintained to avoid contaminating any water of the state.

(2) A suitable approach, such as concrete, gravel or cinder walk must be provided.

(3) Privies must be constructed and maintained to be insect and rodent proof.

(4) Every privy must be provided with a door that is self-closing.

(5) The lids over the seats must be constructed to fall into a closed position when the seat is not occupied.

(6) The pit, or vault must be ventilated to the outside air by means of a stack protected at its outlet by screens.

NEW SECTION

WAC 480-66-460 Specifications for toilet rooms. (1) Separation.

(a) No toilet room must have direct communication with any room in which unwrapped food products are prepared, stored, handled, or sold, unless separated by a self-closing door maintained in operating condition.

(b) Separate toilet facilities must be provided for men and women, and each toilet room must be plainly marked by a sign reading "men" or "women." However, where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where a single occupancy room has more than one toilet, only one of them may be counted for the purpose of the table in WAC 480-66-470.

(c) There must be no direct connection between toilet rooms for men and women. Each must have a separate entrance, and each entrance door must have an automatic closing device maintained in operating condition.

(2) In toilet rooms containing more than one water closet, each water closet must be in an individual compartment.

(3) Every toilet room must be adequately ventilated.

(4) All toilet facilities must be clearly lighted at all times during working hours.

PART 5 - EATING FACILITIES

(5) Every toilet room other than privies must be kept adequately heated.

(6) All windows, ventilators, and other openings, must be screened to prevent the entrance of insects. Toilet rooms must be kept free of insects and vermin.

NEW SECTION

WAC 480-66-470 Number of toilets required. General.

(1) Adequate toilet facilities must be provided for all employees, and for each sex. Facilities must be conveniently located and accessible, and must be maintained at all times in a usable and sanitary condition and in a condition which is not offensive to a reasonable person.

(2) The following table must be used as a guide in determining the adequacy of toilet facilities.

Number of Employees	Minimum Number of Facilities
1 to 10 persons	1 toilet
11 to 25 persons	2 toilets
26 to 49 persons	3 toilets
50 to 100 persons	5 toilets
100 persons or over	5 toilets plus 1 more for each additional 25 employees

(3) Whenever urinals are provided, one urinal may be substituted for one toilet, provided the number of toilets must not be reduced to less than two-thirds of the number shown in the foregoing table.

NEW SECTION

WAC 480-66-480 Supplies for toilets. (1) An adequate supply of toilet paper with holder must be maintained.

(2) In all toilet rooms used by women dispensing machines for sanitary napkins must be provided if requested.

NEW SECTION

WAC 480-66-490 Location and types of toilets. (1) Movable facilities. Flush, chemical, or incinerator type toilets must be provided on the following movable facilities:

(a) The lead locomotive of all trains except when used in yard service.

(b) Baggage and express cars where employees are required to work en route.

(c) Cabooses.

(2) Stationary facilities. Appropriate toilets, as required by these rules, must be provided and made accessible to all employees at all terminals, yards, stations, depots, office work areas, engine houses and shops, bunk or section houses, section headquarters, lunch rooms, and maintenance of way camps.

NEW SECTION

WAC 480-66-500 Eating places. (1) At all permanent and semi-permanent installations, an acceptable place with adequate space for eating meals must be provided for employees who bring their meals to their place of employment, or eat meals prepared at the camp facilities. An acceptable place with adequate space for eating meals must be provided at all other places whenever reasonably possible.

(2) Eating places must be constructed to permit them to be readily cleaned. At all times, they must be kept clean and sanitary, in good repair, and free of rodents, insects and vermin.

(3) Kitchen cars or other camp facilities must have adequate equipment for the sanitary preparation, cooking and refrigeration of food.

(4) If employees are allowed or required to eat in a locomotive, the eating area must be kept clean and sanitary at all times.

NEW SECTION

WAC 480-66-510 Lunch rooms. (1) In lunch rooms where food is served for employees, the food, equipment, and facilities are subject to the rules and regulations of the state department of health pertaining to public food establishments.

(2) Employees and workers handling and serving food are subject to those rules and regulations of the state department of health which are necessary to the sanitary handling of food.

(3) Concessionaire facilities provided by the company in lieu of direct company operations must comply with the regulations in these rules with respect to adequate space, adequate food handling facilities, sanitation and cleanliness.

(4) Adequate table and seating facilities must be provided for the maximum number of employees using the room at any one time.

NEW SECTION

WAC 480-66-520 Specifications for lunch rooms and eating places. (1) General. The minimum area of lunch rooms, or the amount of space to be added to that required for a locker room where a lunch room is not provided, must be based upon the maximum number of employees using the room or added space at any one time, in accordance with the following table:

Number of Employees	Square Feet Per Employee
10 to 25	8
26 to 74	7
75 to 149	6
150 to 499	5
500 and more	4

PERMANENT

(2) Every eating place and lunch room must be adequately ventilated. Where reasonably possible cross-ventilation must be provided.

(3) All lunch rooms must be clearly lighted at all times during hours of use.

(4) Every lunch room must be kept reasonably heated at all times.

(5) The windows, ventilators and doors opening to the outside of all lunch rooms must be properly screened during the season when insects are prevalent.

(6) One or more covered receptacles, as needed, must be furnished in lunch room and eating places for the disposal of waste food and other waste matter. The containers must be emptied regularly and cleaned as often as needed. The area where the receptacles are kept must be maintained free of litter overflowing the receptacles.

WAC 480-66-030	Toilets.
WAC 480-66-040	Eating places and lunch rooms.
WAC 480-66-050	Sleeping accommodations.
WAC 480-66-060	Cleanliness and maintenance.
WAC 480-66-070	General.

PART 6 - SLEEPING ACCOMMODATIONS

NEW SECTION

WAC 480-66-600 Specifications for all accommodations. (1) Walls, floors and ceilings must be constructed to permit them to be readily cleaned.

(2) Exterior windows and doors must be weather stripped during cold weather.

(3) Screens must be provided for outer doors and windows during any season when insects are prevalent.

(4) Heating facilities and adequate fuel must be provided with which employees may maintain a comfortable temperature as weather conditions may require.

(5) Lighting, by windows and/or acceptable artificial illumination, must be provided.

(6) Ventilation must be provided by windows opening directly to the outside air.

(7) Beds, bunks or cots with proper mattresses must be provided. The beds, bunks or cots must be raised at least twelve inches above the floor and be located two feet or more from the side of any other bed, bunk or cot located in the same room, and have at least twenty-seven inches of clear space above it.

NEW SECTION

WAC 480-66-620 Stationary facilities. Dormitories or bunk rooms must be large enough to provide at least fifty square feet of floor area for each person. However, where double bunks are used at least thirty square feet of floor space must be provided for each person using a double bunk. The headroom of dormitories or bunk rooms must be at least seven feet.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-66-010	Definitions.
WAC 480-66-020	Water supply.

**WSR 00-04-017
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-05—Filed January 24, 2000, 10:23 a.m.]

Date of Adoption: December 10, 1999.

Purpose: To amend WAC 232-12-011, 232-12-014, 232-28-02201, 232-28-02202, 232-28-02203, 232-28-02204, 232-28-02205, 232-28-02206, 232-28-02220, 232-28-02240, 232-28-271 and 232-28-275; to adopt WAC 232-28-277; and to repeal WAC 232-28-24102, 232-28-255, 232-28-261, 232-28-262, 232-28-263, 232-28-269, and 232-28-270.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-24102, 232-28-255, 232-28-261, 232-28-262, 232-28-263, 232-28-269 and 232-28-270; and amending WAC 232-12-011, 232-12-014, 232-28-02201, 232-28-02202, 232-28-02203, 232-28-02204, 232-28-02205, 232-28-02206, 232-28-02220, 232-28-02240, 232-28-271, and 232-28-275.

Statutory Authority for Adoption: RCW 77.12.040, 77.12.010, 77.12.020, 77.12.770, 77.12.780.

Adopted under notice filed as WSR 99-22-085 on November 2, 1999.

Changes Other than Editing from Proposed to Adopted Version: WAC 232-28-02201 GMU boundary descriptions—Region one, 232-28-02202 GMU boundary descriptions—Region two, 232-28-02203 GMU boundary descriptions—Region three, 232-28-02204 GMU boundary descriptions—Region four, 232-28-02206 GMU boundary descriptions—Region six, 232-12-011 Wildlife classified as protected shall not be hunted or fished, 232-12-014 Wildlife classified as endangered species, 232-28-277 2001 Big game and wild turkey auction permits and raffles, and 232-28-275 2000 Black bear special permit season and quotas, none.

WAC 232-28-02205 GMU boundary descriptions—Region five, page 49, in GMU 550 (Coweeman) replace the last two lines that read "Cowlitz River; north up Cowlitz River" to "I-5; north on I-5." This change is recommended to describe a consistent boundary with the adjacent Stella unit.

WAC 232-28-02220 Elk area descriptions, add elk Area 036. This establishes a new elk area, but does not designate weapon choice at this time.

WAC 232-28-02240 Muzzleloader area descriptions, delete Muzzle Loader Area 912. This muzzle loader area was changed to an elk area, so as not to designate a weapon choice at this time.

PERMANENT

WAC 232-28-271 Private lands wildlife management area hunting seasons, rules, and boundary descriptions, change archery hunting dates for PLWMA 600 from Sept. 15-30 to Sept. 1-14.

Under PLWMA 201, 2000 Mule Deer, in the first and third sentence change Buckrun to Buckrun Limited. In the second sentence delete the word tag and insert license.

Change Buckrun A permit number to 10; dates to Sept. 15 - Dec. 31; restrictions to 2 pt, spike, or antlerless only.

Change Buckrun B permit number to 20; dates to Sept. 15 - Dec. 31; restrictions to AHE, 2 pt, spike, or antlerless only.

Change Buckrun C permit number to 20; dates to Sept. 15 - Dec. 31; restrictions to *youth, 2 pt, spike, or antlerless only.

Change Buckrun D permit number to 20; dates to Sept. 15 - Dec. 31; restrictions to Persons of Disability, 2 pt, spike, or antlerless only.

Delete Buckrun E and F.

Change the statement below the table to read, "*youth hunters on Buckrun must be 12 - 15 years of age and must be accompanied by an adult during the hunt."

Under PLWMA 401, 2000 Blacktail Deer, add a hunt under Kapowsin North 25 permits; date Dec. 10-12; AHE hunters only; PLWMA 401 A North.

Change Kapowsin Central to 100 permits and both hunts in Kapowsin South to 50 permits each.

Under PLWMA 201, 2000 Mule Deer, delete Creek, change to Limited; change dates to Sept. 15 - Dec. 31;

Under Population Control Deer Hunting, change to Buckrun Limited.

Under PLWMA 600, 2000 Blacktail Deer, change Pysht North A dates to Sept. 1-14.

Under PLWMA 200, change the boundary description language to reflect current, accurate boundaries.

These changes adjust dates and permit levels on species populations and provide recreational opportunity.

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 12, Repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 18, 2000

Debbie Nelson

for Kelly D. White, Chairman
Fish and Wildlife Commission

AMENDATORY SECTION (Amending Order 99-40, filed 5/5/99, effective 6/5/99)

WAC 232-28-271 Private lands wildlife management area hunting seasons, rules and boundary descriptions.

**DEER GENERAL SEASONS ON PRIVATE LANDS
WILDLIFE MANAGEMENT AREAS**

Champion (PLWMA 401) Kapowsin Tree Farm

Hunting Method	((1999)) 2000 Dates	Special Restrictions
Archery	August 28-Sept. 10 October 1-9	2 Pt. Min. or Antlerless 2 Pt. Min. or Antlerless
Modern Firearm	October 10-24	2 Pt. Min.
Muzzleloader	November 24-Dec. 5	2 Pt. Min. or Antlerless

Merrill and Ring (PLWMA 600) Pysht Tree Farm

Hunting Method	((1999)) 2000 Dates	Special Restrictions
Archery	September ((15-30)) 1-14 Nov. ((24)) 25-Dec. 31	Either Sex South Unit Antlerless Only North Unit; Either Sex South Unit
Modern Firearm	Oct. ((16)) 14-31 Nov. ((18-24)) 16-18	Buck Only South Unit Buck Only South Unit
Muzzleloader	Oct. 1-9	Antlerless Only North Unit; Buck Only South Unit

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((1999)) 2000 DEER PERMIT SEASONS ON PRIVATE LANDS WILDLIFE MANAGEMENT AREAS

((1999)) 2000 - Mule Deer
((Wilson)) Buckrun Limited Permit Draw Permits. Hunters apply to Washington Department of Fish and Wildlife in WDFW permit draw process. Only hunters possessing a modern firearm deer tag are eligible for **((Wilson)) Buckrun Limited** draw hunts. Hunters are limited to one day of hunting during the permit season.

Hunt Name	Permit Number	Permit Season	Special Restrictions	Boundary Description
((Wilson)) Buckrun A	((4)) 10	((Oct-1)) Sept 15-Dec 31	((Buck Only, Youth Hunters Only*)) 2 pt. spike or antlerless only	PLWMA 201
((Wilson)) Buckrun B	((29)) 20	((Oct-1)) Sept 15-Dec 31	((Antlerless Only, Youth Hunters Only*)) AHE, 2 pt. spike or antlerless only	PLWMA 201
((Wilson)) Buckrun C	((29)) 20	((Oct-1)) Sept 15-Dec 31	((Antlerless Only, Persons of Disability Only)) *Youth, 2 pt. spike or antlerless only	PLWMA 201
((Wilson)) Buckrun D	((29)) 20	((Oct-1)) Sept 15-Dec 31	((Antlerless Only, AHE-Hunters Only)) Persons of disability, 2 pt. spike or antlerless only	PLWMA 201
((Wilson-E))	((1))	((Oct-1-Dec 31))	((Buck Only, Persons of Disability Only))	((PLWMA-201))
((Wilson-F))	((1))	((Oct-1-Dec 31))	((Buck Only, AHE Only))	((PLWMA-201))

* Youth hunters on **Buckrun** must be **((under-16)) 12 - 15** years of age and must be accompanied by an adult during the hunt.

Access for these hunts are for one day, scheduled by the manager. There are no access fees for these hunts. All hunters shall have a valid modern firearm deer tag and written authorization from the manager to participate in these hunts. All other hunting regulations apply.

((1999)) 2000 - Blacktail Deer
Champion's Kapowsin Tree Farm - Champion Permit Draw Deer Permits - Hunters apply to Washington Department of Fish and Wildlife in WDFW permit draw process.

Hunt Name	Permit Number	Permit Season	Special Restrictions	Boundary Description
Kapowsin North	25	Dec. 10-12	Antlerless Only, Age 65 and older Hunters	PLWMA 401 A North
Kapowsin Central Kapowsin South	25	Dec. 10-12	AHE Hunters Only	PLWMA 401 A North
	((50)) 100	Dec. 10-12	Antlerless Only	PLWMA 401 B Central
	((25)) 50	Dec. 10-12	Antlerless Only Youth Hunters	PLWMA 401 C South
	((25)) 50	Dec. 10-12	Antlerless Only Persons of Disability	PLWMA 401 C South

ACCESS QUOTAS AND RAFFLE SEASONS ON PRIVATE LANDS WILDLIFE MANAGEMENT AREAS

PERMANENT

((1999)) 2000 - Mule Deer
((Wilson-Creek)) Buckrun Limited Area - Access Quotas and Seasons
 Only hunters possessing a modern firearm deer tag are eligible for access authorizations on PLWMA 201. You may contact the PLWMA manager at (509) 345-2577 for information on these hunts.

Hunt Name	Quota	Access Season	Special Restrictions	Boundary Description
((Wilson)) Buckrun	100	((Oct.-1)) Sept 15-Dec. 31	Any Deer (Access Fee) Modern Firearm Deer Tag	PLWMA 201

((1999)) 2000 - Mule Deer
((Wilson)) Buckrun Limited Population Control Deer Hunting
 If deer counts conducted the last week of November or first week of December exceed 1350 deer, special hunting opportunities will be available on ((Wilson-Creek)) Buckrun Limited PLWMA. All hunts will be available only to Advanced Hunter Education (AHE) graduates. The harvest quota will be the number of deer exceeding 1350 but not more than 100.
 Legal animals will be antlerless only, except one in ten hunters will be allowed to take a management buck (3 points or less on one side).
 AHE hunters will be contacted by the ((Wilson)) Buckrun Limited PLWMA manager to determine their interest in the hunt. After harvest quotas are determined, ((Wilson)) Buckrun Limited PLWMA manager will contact the desired number of AHE hunters to participate in the hunt. Hunt dates will be during the month of December, but exact dates will be determined by the PLWMA manager and the hunter.

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((1999)) 2000 - Blacktail Deer
Champion's Kapowsin Tree Farm -- Raffle Quotas and Seasons
 Hunter must contact Champion for auction/raffle permit opportunity.
 Only hunters possessing a valid deer tag (any ((1999)) 2000 deer tag) are eligible for Champion buck permits. Hunters drawing a Champion deer raffle permit may purchase a second deer tag for the Champion hunt. Persons interested in these deer permits should contact Champion Pacific Timberlands, Inc., 31716 Camp 1 Road, Orting, WA 98360. For more information, please call Champion at 1-800-782-1493.

Hunt Name	Permit Number	Raffle Season	Special Restrictions	Boundary Description
Kapowsin North/Buck	8	Nov. 6-18	Buck Only (Auction/Raffle)	PLWMA 401 A North
Kapowsin Central/Buck	29	Nov. 6-18	Buck Only (Auction/Raffle)	PLWMA 401 B Central
Kapowsin South/Buck	14	Nov. 6-18	Buck Only (Auction/Raffle)	PLWMA 401 C South

((1999 Blacktail Deer
Champion's Kapowsin Tree Farm - Antlerless Harvest Quotas
Hunts open only to persons purchasing Champion's annual access permits.

Hunting Method	Harvest Quota	1999 Permit Season	Special Restrictions	Boundary Descriptions
Any Legal	5	Dec. 17-19	Antlerless Only	PLWMA 401 North Kapowsin North
Any Legal	10	Dec. 17-19	Antlerless Only	PLWMA 401 Central Kapowsin Central
Any Legal	10	Dec. 17-19	Antlerless Only	PLWMA 401 South Kapowsin South))

((1999)) 2000 - Blacktail Deer
Merrill and Ring's Pysht Tree Farm - Raffle Quotas and Seasons
 An access fee will be charged by the landowner for hunting on the Pysht Tree Farm. Pysht North A is archery only, all other hunts are open to any legal weapon hunters. The following hunts are raffle hunts offered by Merrill and Ring. Only hunters possessing a valid deer tag (any ((1999)) 2000 deer tag) are eligible for Merrill and Ring hunts. Persons interested in these hunts should contact Merrill and Ring, 11 Pysht River Rd., Clallam Bay, WA 98326. For more information, please call Merrill and Ring at 1-800-998-2382.

Hunt Name	Quota	Raffle Season	Special Restrictions	Boundary Description
Pysht North A	15	Sept. ((15-30)) <u>1-14</u>	Raffle, Archery, 3 pt. minimum or Antlerless	PLWMA 600 A North
Pysht North B	40	Oct. 19-31	Raffle, Antlerless Only	PLWMA 600 A North
Pysht North C	30	Nov. 10-24	Raffle, 3 Pt. Min. or Antlerless	PLWMA 600 A North
Pysht South A	40	Oct. 19-31	Raffle, Antlerless Only	PLWMA 600 B South

ELK RAFFLE SEASONS ON PRIVATE LANDS WILDLIFE MANAGEMENT AREAS

((1999)) 2000 - Elk
Champion (PLWMA 401) Kapowsin Tree Farm - Raffle Quotas and Seasons
 Only hunters possessing a valid ((1999)) 2000 elk tag and meeting the special restrictions noted for each hunt are eligible for Champion access permits on PLWMA 401. Hunters must contact Champion for auction/raffle permit opportunity. Hunters drawing a Champion elk raffle permit are eligible to purchase a second elk tag for the Champion hunt. Champion Pacific Timberland Inc., 31716 Camp 1 Road, Orting, Washington 98360. For more information, please call Champion at 1-800-782-1493.

Hunt Name	Quota	Raffle Season	Special Restrictions	Boundary Descriptions
Kapowsin Bull North	2	Sept. 15-30	Auction/Raffle Any Bull, Any Tag	PLWMA 401 A North
Kapowsin Bull Central	2	Sept. 15-30	Auction/Raffle Any Bull, Any Tag	PLWMA 401 B Central
Kapowsin Bull South	2	Sept. 15-30	Auction/Raffle Any Bull, Any Tag	PLWMA 401 C South

((1999)) 2000 - Elk
Merrill and Ring PLWMA 600 Pysht Tree Farm - Raffle Quota and Season
 Hunter must contact Merrill and Ring for raffle hunt opportunity. For more information please call Merrill and Ring at 1-800-998-2382 or write to them at Merrill and Ring Tree Farm, 11 Pysht River Rd., Clallam Bay, WA 98326.

Hunt Name	Quota	Raffle Season	Special Restrictions	Boundary Descriptions
Pysht	2	Sept. ((1-14)) <u>15-30</u>	Raffle Any Bull, Any Tag	PLWMA 600

AREA DESCRIPTIONS - PRIVATE LANDS WILDLIFE MANAGEMENT AREAS

~~((PLWMA 201 - Wilson Creek (Grant County): This area surrounds Billy Clapp Lake directly north of the town of Stratford and northwest of the town of Wilson Creek. The legal description is T22N, R29E; north 1/2 of Section 3, Section 4 except southeast 1/4 of southeast 1/4 and north 1/2 of northwest 1/4; Section 5; Section 6 north of State Highway~~

28; Sections 8 and 9. T23N, R29E, Sections 5, 6, 7, and 8; Sections 13, 14, 17, and 18; Section 19 except for northwest 1/4 of the southwest 1/4; Sections 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; southeast 1/4 of Section 30; Section 31; Section 32 south 1/2 of northwest 1/4 and north 1/2 of southwest 1/4; Sections 33, 34, and 35. T23N, R28E, Sections 1 and 2; Section 3 except west 1/4; Section 4 except southwest 1/4 and east 1/2 of southeast 1/4; Section 5; Section 6 except west 1/4; Sections 7 and 8; Section 9 except south 1/2; north 1/2 of

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Section 10 except west 1/4; Section 11 except south 1/4; north 1/2 of Section 12; Section 15 except that part within Stratford Game Reserve; Section 16 except northeast 1/4; Sections 17, 18, 19, 20, 21, 22, and 23; Sections 26, 27, 28, 29, 30, and 33; north 1/2 and north 1/2 of south 1/2 of Section 34; Section 35 except that part in game reserve. T23N, R27E, Section 11, south 1/2 of southwest 1/4 and west 1/4 of southeast 1/4 of Section 12; Sections 13 and 14; Section 22 except west 1/2 of southwest 1/4; Sections 23, 24, 25, 26, and 27. T24N, R28E, Section 35. T24N, R29E, Section 31; west 1/2 of Section 32.) **PLWMA 201 - Buckrun Limited (Grant County):** Beginning at the southwest corner of S27 T23 R27E; 2 miles east, 1/2 mile north, 1 mile east, 1/2 mile south of S25; continuing 2 miles east to the southwest corner of S26 T23 R28E; 1 mile south to the southwest corner of S33 T23 R28E; east 1 mile; thence 1/4 mile north, 1 mile east, 1/4 mile to the intersection with the Stratford Game Reserve; from the southwest corner of S6 T22 R29E; east 1 mile along BNSF right-of-way to the intersection of S5 T22 R29E; south 1.75 miles to the southwest corner of S8 T22 R29E; east 2 miles to the southeast corner of S9 T22 R29E; north 1.5 miles (except the southeast 1/4 of the southeast 1/4 of S4 T22 R29E); east 1.5 miles to the middle 1/4 corner of S2 T22 R29E; north 1/4 mile, west 1/2 mile, north 1/2 mile; east at the northeast corner of S2 T22 R29E; 1 mile east to the southeast corner of S35 T23 R29E; north 1 mile to the southeast corner of S26 T23 R29E; east 1 mile to the southeast corner of S25 T23 R29E; north 4.25 miles to the northeast 1/4 of the southeast 1/4 of S1 T23 R29E; west 1 mile to the northwest corner of the northwest 1/4 of S1 T23 R29E; south 1 mile to the southwest corner of the northwest 1/4 of the southwest 1/4 of S12 T23 R29E; 1/2 mile east to the northwest corner of the southeast 1/4 of the southwest 1/4 of S12 T23 R29E; south 1/4 mile to the southeast corner of the southwest 1/4 of S12 T23 R29E; west 3 miles to the northwest corner of the east 1/2 of S16 T23 R29E; south 1 mile to the southeast corner of the east 1/2 of S16 T23 R29E; west 1/2 mile to the northeast corner of S20 T23 R29E; north 1 mile to the northwest corner of S16 T23 R29E; east 1 mile to the northeast corner of S9 T23 R29E; north 1 mile to the northeast corner of S9 T23 R29E; west 1 mile to the northeast corner of S8 T23 R29E; north 1 mile to the northeast corner of S5 T23 R29E; west 1/2 mile to the southeast corner of the west 1/2 of S32 T23 R29E; north 1 mile to the corner of the west 1/2 of S32 T23 R29E; 1.5 miles west to the northwest corner of S31 T24 R29E; south 1 mile to the northwest corner of S6 T23 R29E; west 1 mile to the northeast corner of S2 T23 R28E; north 1 mile to the northeast corner of S35 T24 R28E; west 1 mile to the northwest corner of S35 T24 R28E; south 1 mile to the northwest corner of S2 T23 R28E; west 3/4 mile to the northwest corner of the northeast 1/4 of S3 T23 R28E; south 1.5 miles to the intersection with the Stratford Game Reserve; continue from the southeast corner of the southeast 1/4 of the northeast 1/4 of S9 T23 R28E; north 1/2 mile to the northeast corner of S9 T23 R28E; west 1/4 mile north to the intersection of the Pinto Ridge Road; southwest on the Pinto Ridge Road to the northeast corner of the southeast 1/4 of S8 T23 R28E; west 1/2 mile to the northwest corner of the southeast 1/4 of S8 T23 R28E; south 1/4 mile to the intersection with the old NPRR

bed. Follow the NPRR bed southwest to the southeast corner of the southwest 1/4 of S13 T23 R27E; northeast along the Dry Coulee Road to the northeast corner of S13 T23 R27E; west 1/4 mile to the southwest corner of the southeast 1/4 of S12 T23 R27E; north 1/4 mile, west 1/2 mile, north 1/4 mile, west 1/4 mile to the corner of the southwest 1/4 of S12 T23 R27E; west 1 mile to the northwest corner of the south 1/2 of S11 T23 R27E; south 1.5 miles to the northwest corner of S23 T23 R27E; west 2 miles to the northwest corner of S22 T23 R27E; south 1 mile to the southwest corner of S21 T23 R27E; east 1 mile, south 1 mile to the point of beginning. Public lands ((with)) within the external boundaries are not part of the PLWMA.

PLWMA 401 - Champion (Pierce County): Beginning at the intersection of Champion haul road (Champion 1 Rd.) and the Camp One Road near the town of Kapowsin; ((then)) southwest along the east side of Lake Kapowsin to Ohop Creek; ((then)) up Ohop Creek to Champion ownership line; ((then)) along ownership line to S.W. corner of the north half of Section 6, T16N, R5E; ((then)) easterly along Weyerhaeuser/Champion ownership line to the intersection with Busy Wild Creek; ((then)) up Busy Wild Creek to intersection with Champion ownership on the section line between Sections 10 & 15, T15N, R6E; ((then)) west and south along DNR/Champion ownership line and Plum Creek Timber Co./Champion ownership line to most southerly point of Champion ownership (northwest of Ashford, WA); ((then)) easterly along Champion ownership line to DNR/Champion ownership line; ((then)) north and east to USFS/Champion ownership line; ((then)) east along USFS/Champion ownership line to S.W. corner of Section 31, T16N, R7E; ((then)) north along USFS/Champion ownership line to N.W. corner Section 32, T16N, R7E; ((then)) east along Plum Creek Timber Co./USFS ownership line to N.E. corner of Section 32, T16N, R7E; ((then)) south along USFS/Champion ownership line to S.E. corner Section 32, T16N, R7E; ((then)) east along USFS/Champion ownership line to Mount Rainier National Park Boundary; ((then)) north along Mount Rainier National Park Boundary to N.E. corner Section 24, T17N, R7E; ((then)) northwest along SR 165 to intersection with Carbon River; ((then)) down Carbon River to the BPA Transmission Line; ((then)) south and west along the powerline to the Fisk Road; ((then)) south along the Fisk Road to the King Creek Gate; ((then)) north and west along the Brooks Road BPA Transmission line; ((then)) southwest along BPA Transmission line to the Puyallup River (excluding all small, private ownerships); ((then)) up Puyallup River to intersection with Champion haul road bridge; ((then)) south along Champion haul road to point of beginning. Another portion of PLWMA 401 Champion is the Buckley block (Kapowsin North described as follows: Beginning at the intersection of the BPA Transmission line and South Prairie Creek; ((then)) up South Prairie Creek to East Fork South Prairie Creek; ((then)) up East Fork South Prairie Creek to Plum Creek Timber Co./Champion ownership line (on south line of Section 33, T19N, R7E); ((then)) along Champion ownership line to center line of Section 34, T19N, R7E; ((then)) north and east along DNR/Champion ownership line to S.W. corner of Section 27, T19N, R7E; ((then)) north

along Weyerhaeuser/Champion ownership line to White River; ~~((then))~~ down White River to where it crosses west line Section 6, T19N, R7E; ~~((then))~~ south and west along Champion ownership line to intersection with South Prairie Creek; ~~((then))~~ up South Prairie Creek to point of beginning.

PLWMA 401A - Kapowsin North (Buckley): That portion of PLWMA 401 description which includes the Buckley block.

PLWMA 401B - Kapowsin Central (King Creek): That portion of PLWMA 401 description which lies to the north of the Puyallup River, excluding the Buckley block.

PLWMA 401C - Kapowsin South (Kapowsin): That portion of PLWMA 401 description which lies to the south of the Puyallup River.

PLWMA 600 - Merrill and Ring (Clallam County): Beginning at Clallam Bay, east along the Strait of Juan de Fuca to the mouth of Deep Creek, ~~((then))~~ south along Deep Creek to the township line between Townships 30 and 31, ~~((then))~~ west along said township line to Highway 113 (Burnt Mt. Road) and north along Burnt Mt. Road (Highway 112 and 113) to Clallam Bay and point of beginning, except the following described lands: T31N R10W: E 1/2 W 1/2, E 1/2 West of Deep Creek Section 19, Except SW 1/4 NW 1/4, SW 1/4, W 1/2 E 1/2 West of Deep Creek Section 30, Except North & West of Deep Creek Section 31: T31N R11W; Except the SW 1/4 SE 1/4 Section 7, Except that portion of NW 1/4 SE 1/4 which is County Park Section 10, Except the NE 1/4 NE 1/4 Section 14, Except W 1/2, W 1/2 E 1/2, SE 1/4 NE 1/4, NE 1/4 SE 1/4 Section 16, Except SW 1/4 NE 1/4 Section 17, Except NW 1/4 NW 1/4, SE 1/4 NW 1/4, SE 1/4, NE 1/4, NW 1/4 SE 1/4 Section 18, Except W 1/2 SW 1/4, SW 1/4 NE 1/4 Section 19, Except W 1/2 SW 1/4 Section 27, Except S 1/2 S 1/2, N 1/2 SW 1/4 Section 28, Except E 1/2 SE 1/4, SW 1/4 SE 1/4, NE 1/4, SW 1/4 Section 29, Except SW 1/4 SE 1/4 Section 30, Except NE 1/4 Section 31, Except All Section 32, Except All Section 33, except SW 1/4 NE 1/4, S 1/2 Section 34, T31N R12W; Except SE 1/4 SE 1/4, W 1/2 SE 1/4 East of Highway 112 Section 4, Except All East of Highway 112 Section 9, Except E 1/2 NE 1/4, SW 1/4 NE 1/4, W 1/2, SW 1/4, NW 1/4 SE 1/4 Section 13, Except S 1/2 SE 1/4 Section 14, Except E 1/2 NW 1/4 East of Highway 112 Section 23, Except N 1/2 SW 1/4, SE 1/4 NW 1/4 Section 24, Except SE 1/4 SW 1/4, SW 1/4 SE 1/4 Section 26, Except N 1/2 N 1/2, NE 1/4 SW 1/4 Section 35, Except All Section 36: T32N R12W; Except W 1/2 SE 1/4 Section 21, Except All Section 22, Except NW 1/4 Section 27, Except NE 1/4, N 1/2 SE 1/4, E 1/2 W 1/2 East of Highway 112 Section 28, Except E 1/2 W 1/2 East of Highway 112 Section 33, Except S 1/2 Section 36.

PLWMA 600A North - Merrill and Ring North: That portion of PLWMA 600 north of Highway 112.

PLWMA 600B South - Merrill and Ring South: That portion of PLWMA 600 south of Highway 112.

AMENDATORY SECTION (Amending Order 99-40, filed 5/5/99, effective 6/5/99)

WAC 232-28-02201 Game management units (GMUs)—Special game areas—Boundary descriptions—Region one.

GMU 101-SHERMAN (Ferry and Okanogan counties): Beginning at the Kettle River and the Canadian border near the Ferry Customs Office; ~~((then))~~ east on the border to the Kettle River near Laurier; ~~((then))~~ south along the Kettle River and the Ferry County line to the mouth of the Kettle River and Lake Roosevelt; ~~((then))~~ south on the Ferry County line in Lake Roosevelt to the northern boundary of the Colville Indian Reservation; ~~((then))~~ west on the reservation boundary to State Highway 21; ~~((then))~~ north on Highway 21 to Republic and Highway 20; ~~((then))~~ northwest on Highway 20 to Wauconda and the Toroda Creek Road; ~~((then))~~ northeast on the Toroda Creek Road to Toroda and the mouth of Toroda Creek on the Kettle River; ~~((then))~~ north on the Kettle River to the Canadian border and point of beginning.

GMU 105-KELLYHILL (Stevens County): Beginning at the Kettle River and the Canadian border near Laurier; ~~((then))~~ east on the border to Lake Roosevelt (Columbia River); ~~((then))~~ south along Lake Roosevelt to the mouth of the Kettle River; ~~((then))~~ north along the Kettle River and the Ferry County line to the Canadian border near Laurier and the point of beginning.

GMU 109-THREEFORKS (Stevens and Pend Oreille counties): Beginning at Colville, ~~((then))~~ northwest on Highway 395 and State Highway 20 to the bridge over Lake Roosevelt; ~~((then))~~ north up Lake Roosevelt and the Columbia River to the Canadian border; ~~((then))~~ east along the Canadian border to the Pend Oreille River; ~~((then))~~ south along the Pend Oreille River near Tiger; ~~((then))~~ west and south on State Highway 20 to Colville and the point of beginning.

GMU 113-SELKIRK (Pend Oreille County): Beginning on the Pend Oreille River at the Canadian border; east on the border to the Idaho State line; ~~((then))~~ south on the Idaho-Washington State line to the Pend Oreille River near Newport; ~~((then))~~ northwest along the Pend Oreille River to the Canadian border and the point of beginning.

GMU 117-49 DEGREES NORTH (Stevens and Pend Oreille counties): Beginning at Colville and State Highway 20; ~~((then))~~ east on State Highway 20 to the Pend Oreille River near Tiger; ~~((then))~~ south along the Pend Oreille River to the Idaho State line; ~~((then))~~ south along the state line to U.S. Highway 2 in Newport; ~~((then))~~ southwest on U.S. Highway 2 to the Deer Park-Milan Road; ~~((then))~~ west on the Deer Park-Milan Road to Deer Park and U.S. Highway 395; ~~((then))~~ northwest on U.S. Highway 395 to Loon Lake and State Highway 292; ~~((then))~~ west on State Highway 292 to Springdale and State Highway 231; ~~((then))~~ north on State Highway 231 through Valley to U.S. Highway 395; ~~((then))~~ north on U.S. Highway 395 to Colville and the point of beginning.

PERMANENT

GMU 121-HUCKLEBERRY (Stevens County): Beginning at the bridge over Lake Roosevelt near Kettle Falls on U.S. Highway 395; ~~((then))~~ south on U.S. Highway 395 through Colville and Chewelah to State Highway 231; ~~((then))~~ south on State Highway 231 to the northeast corner of the Spokane Indian Reservation; ~~((then))~~ west on the north boundary of the reservation to Lake Roosevelt and the Stevens County line; ~~((then))~~ north along Lake Roosevelt (on the Stevens County line) to the bridge over Lake Roosevelt near Kettle Falls and the point of beginning.

GMU 124-MOUNT SPOKANE (Spokane, Stevens and Pend Oreille counties): Beginning at Springdale on State Highway 292; ~~((then))~~ east on State Highway 292 to Loon Lake and U.S. Highway 395; ~~((then))~~ south on U.S. Highway 395 to Deer Park; ~~((then))~~ east on the Deer Park-Milan Road to U.S. Highway 2; ~~((then))~~ north on U.S. Highway 2 to Newport and the Idaho-Washington State line; ~~((then))~~ south on the state line to the Spokane River; ~~((then))~~ west along the Spokane River to the Spokane Indian Reservation; ~~((then))~~ north on the east boundary of the Indian reservation (Chamokane Creek) to State Highway 231; ~~((then))~~ north on State Highway 231 to Springdale and the point of beginning.

GMU 127-MICA PEAK (Spokane County): Beginning at Spokane and following the Spokane River east to the Idaho-Washington border; ~~((then))~~ south on the border to the Spokane-Whitman County line (Whitman Road); ~~((then))~~ west on the county line to U.S. Highway 195; ~~((then))~~ north on U.S. Highway 195 to Spokane and the point of beginning.

GMU 130-CHENEY (Spokane and Lincoln counties): Beginning on the Spokane—Lincoln County line at the Spokane River and State Highway 231; ~~((then))~~ east along the Spokane River to Spokane and U.S. Highway 195; ~~((then))~~ south on U.S. Highway 195 to the Spokane-Whitman County line; ~~((then))~~ west on the north boundary of Whitman and Adams counties to U.S. Highway 395; ~~((then))~~ northeast along U.S. Highway 395 to Sprague and State Highway 231; ~~((then))~~ north on State Highway 231 to U.S. Highway 2; ~~((then))~~ east on U.S. Highway 2 to Reardan and State Highway 231; ~~((then))~~ north along State Highway 231 to the Spokane River and the point of beginning.

GMU 133-ROOSEVELT (Lincoln County): Beginning at Coulee Dam; ~~((then))~~ east along Lake Roosevelt and the Lincoln County line to State Highway 231; ~~((then))~~ south on State Highway 231 to Reardan and U.S. Highway 2; ~~((then))~~ west on U.S. Highway 2 to Wilbur and State Highway 174; ~~((then))~~ northwest on State Highway 174 to Coulee Dam and the point of beginning.

GMU 136-HARRINGTON (Lincoln County): Beginning at the town of Grand Coulee; ~~((then))~~ southeast on State Highway 174 to U.S. Highway 2 at Wilbur; ~~((then))~~ east on U.S. Highway 2 to U.S. Highway 231; ~~((then))~~ south on Highway 231 to U.S. Highway 395 at Sprague; ~~((then))~~ southwest on U.S. Highway 395 to the Adams County line at Sprague Lake; ~~((then))~~ west on the Lincoln-Adams County line (Davis Road) to the Grant County line; ~~((then))~~ north on

the Lincoln-Grant County line (X NE, W.7 NE Roads) to the town of Grand Coulee and the point of beginning.

GMU 139-STEPTOE (Whitman County): Beginning at the northwest corner of Whitman County near Fourth of July Lake; ~~((then))~~ east on the north Whitman County line to the Washington-Idaho border; ~~((then))~~ south on the Washington-Idaho border to State Highway 270 near Moscow, Idaho; ~~((then))~~ west on State Highway 270 through Pullman to U.S. Highway 195; ~~((then))~~ northwest on U.S. Highway 195 to Colfax; ~~((then))~~ southwest on State Highway 26 to the Palouse River and the west Whitman County line; ~~((then))~~ north on the Whitman-Adams County line to the north Whitman County line and the point of beginning.

GMU 142-ALMOTA (Whitman County): Beginning at Colfax and U.S. Highway 195; ~~((then))~~ southeast on U.S. Highway 195 to State Highway 270; ~~((then))~~ east on State Highway 270 through Pullman to the Washington-Idaho State border near Moscow, Idaho; ~~((then))~~ south along the state line to the Snake River (Whitman County line) near Clarkston; ~~((then))~~ west along the Snake River (Whitman County line) to the mouth of the Palouse River (Whitman County line); ~~((then))~~ north on the Whitman County line to State Highway 26 (Washtucna-LaCrosse Highway); ~~((then))~~ east on State Highway 26 to Colfax and the point of beginning.

GMU 145-MAYVIEW (Garfield and Asotin counties): Beginning at the mouth of Deadman Creek on the Snake River (Garfield County line) at Central Ferry; ~~((then))~~ east along the Snake River to the mouth of Alpowa Creek and U.S. Highway 12; ~~((then))~~ west on U.S. Highway 12 to State Highway 127; ~~((then))~~ north on State Highway 127 (Central Ferry Highway) to the Snake River and the point of beginning.

GMU 149-PRESCOTT (Walla Walla, Columbia, and Garfield counties): Beginning on the Columbia River at the mouth of the Snake River (Walla Walla County line); ~~((then))~~ northeast and east along the Snake River to Central Ferry; ~~((then))~~ south on State Highway 127 (Central Ferry Highway) to Dodge Junction; ~~((then))~~ southwest on U.S. Highway 12 through Dayton and Waitsburg; ~~((then))~~ southwest on Highway 12 to Walla Walla and State Highway 125; ~~((then))~~ south on State Highway 125 to the Washington-Oregon State line; ~~((then))~~ west on the state line to the Columbia River (Walla Walla County line); ~~((then))~~ north along the Columbia River to the mouth of the Snake River and the point of beginning.

GMU 154-BLUE CREEK (Walla Walla and Columbia counties): Beginning at Waitsburg on U.S. Highway 12; ~~((then))~~ northeast on U.S. Highway 12 to the Payne Hollow Road at Long Station; ~~((then))~~ south on the Payne Hollow Road-Jasper Mountain-Mt. Pleasant Road to the Lewis Peak Road; ~~((then))~~ south on the Lewis Peak Road and Trail to ~~((its termination at))~~ the Mill Creek Watershed Intake Trail (3211); ~~((then))~~ southwest on the trail to the Washington-Oregon State line; ~~((then))~~ west on the state line to State Highway 125; ~~((then))~~ north on State Highway 125 to

((~~Walla Walla~~)) Highway 12; ((~~then~~)) northeast on Highway 12 to Waitsburg and the point of beginning.

GMU 157-MILL CREEK WATERSHED (Walla Walla and Columbia counties): Beginning at the Mill Creek Watershed Intake Trail (3211) on the Washington-Oregon State line; ((~~then~~)) northeast on the Intake Trail (3211) to the Skyline Drive Road (USFS Road 64); ((~~then~~)) south on the Skyline Drive Road to the Washington-Oregon State line; ((~~then~~)) west on the state line to the Mill Creek Watershed Intake Trail (3211) and the point of beginning.

GMU 162-DAYTON (Walla Walla and Columbia counties): Beginning at Dayton and the Patit Creek Road; ((~~then~~)) east on the Patit Creek Road to the Hartsock-Maloney Mountain Road; ((~~then~~)) south and west on the Maloney Mountain Road (USFS Road 4625) to the Skyline Drive Road (USFS Road 46); ((~~then~~)) south on the Skyline Drive Road to the Mill Creek Watershed Intake Trail (3211); ((~~then~~)) west on the Intake Trail to the Lewis Peak Trail and Road; ((~~then~~)) north on the Lewis Peak ((~~Trail~~)) Road to the Mt. Pleasant Road; ((~~then~~)) north on the Mt. Pleasant Road to the Jasper Mountain Road; ((~~then~~)) north on the Jasper Mountain-Payne Hollow Road to U.S. Highway 12 at Long Station; ((~~then~~)) northeast on U.S. Highway 12 to Dayton and the point of beginning.

GMU 163-MARENGO (Columbia and Garfield counties): Beginning at Dayton and U.S. Highway 12; ((~~then~~)) north on U.S. Highway 12 to the Linville Gulch Road at Zumwalt; ((~~then~~)) south on the Linville Gulch Road to the Blind Grade Road; ((~~then~~)) southwest on the Blind Grade Road to the Tucannon Road; ((~~then~~)) north on the Tucannon Road to the Hartsock Grade Road; ((~~then~~)) south on the Hartsock Grade Road to the Patit Road; ((~~then~~)) west on the main Patit Road to Dayton and the point of beginning.

GMU 166-TUCANNON (Columbia and Garfield counties): Beginning at the intersection of the Hartsock Grade Road and the Tucannon River Road; ((~~then~~)) southeast on the Tucannon River Road to the elk drift fence; ((~~then~~)) southeast along the elk drift fence and the U.S. Forest Boundary to the Mountain Road (USFS Road 40); ((~~then~~)) south on the Mountain Road to the Diamond Peak Road (USFS Road 4030); ((~~then~~)) west on the Diamond Peak Road past Diamond Peak to the Diamond Peak-Oregon Butte-Bullfrog Springs-Teepee Trail; ((~~then~~)) west along the trail to Teepee Camp and the Teepee Road (USFS Road 4608); ((~~then~~)) west on the Teepee Road to the Skyline Drive Road (USFS Road 46); ((~~then~~)) north on the Skyline Drive Road to the Maloney Mountain Road (USFS Road 4625); ((~~then~~)) north on the Maloney Mountain Road to the Hartsock Grade Road; ((~~then~~)) north on the Hartsock Grade Road to the point of beginning at the Tucannon River Road.

GMU 169-WENAHA (Columbia, Garfield and Asotin counties): Beginning on the Washington-Oregon State line at the Skyline Drive Road; ((~~then~~)) north on the Skyline Drive Road to Godman Springs and the Teepee Road (USFS Road 4608); ((~~then~~)) east on the Teepee Road to Teepee Camp; ((~~then~~)) east on the Teepee-Oregon Butte-Bullfrog

Spring-Diamond Peak Trail to Diamond Peak; ((~~then~~)) east on the Diamond Peak Road (USFS Road 4030) to the Mountain Road (USFS Road 40); ((~~then~~)) south along the Mountain Road to the South Boundary Road (USFS Road 4039); ((~~then~~)) west along the South Boundary Road to the Three Forks Trail (USFS Road 3133); ((~~then~~)) northwest on the trail to Crooked Creek; ((~~then~~)) south along Crooked Creek to the Washington-Oregon State line; ((~~then~~)) due west on the state line to the Skyline Road and the point of beginning.

GMU 172-MOUNTAIN VIEW (Garfield and Asotin counties): Beginning on the Washington-Oregon State line at Crooked Creek; ((~~then~~)) north along Crooked Creek to Three Forks Trail (3133); ((~~then~~)) southeast on the trail to the South Boundary Road (USFS Road 4039) ((~~then~~)); northeast on the South Boundary Road to the Mountain Road (USFS Road 40); ((~~then~~)) north on the Mountain Road to Misery Springs and the Mt. Misery-Big Butte Road (USFS Roads 44, 43, 4304); ((~~then~~)) east on the Mt. Misery-Big Butte Road to the West Mountain Road (1290); ((~~then~~)) northeast on the West Mountain Road to the Bennett Ridge Road-Mill Road; ((~~then~~)) north and east on the Bennett Ridge Road-Mill Road to Anatone and State Highway 129; ((~~then~~)) southwest on State Highway 129 to the Washington-Oregon State line; ((~~then~~)) due west on the state line to Crooked Creek and the point of beginning.

GMU 175-LICK CREEK (Garfield and Asotin counties): Beginning at the intersection of the Mountain Road (USFS 40) and the elk drift fence; ((~~then~~)) east along the elk drift fence to its end at the east section line of Section 2, T9N, R43E; ((~~then~~)) due south along said section line to Charley Creek, and east along Charley Creek to Asotin Creek; ((~~then~~)) south along Asotin Creek to the South Fork Asotin Creek Road; ((~~then~~)) south along South Fork of Asotin Creek Road to Campbell Grade Road; ((~~then~~)) east on the Campbell Grade Road to the Cloverland Road; ((~~then~~)) south on Cloverland Road to its junction with the U.S. Forest Boundary fence; ((~~then~~)) east and south on the U.S. Forest Boundary fence past Big Butte to the Big Butte-Mt. Misery Road (USFS 4304, 43, 44) ((~~then~~)); west on the Big Butte-Mt. Misery Road to the Mountain Road (USFS 40); ((~~then~~)) northwest on the Mountain Road to the National Forest Boundary, and the point of beginning.

GMU 178-PEOLA (Garfield and Asotin counties): Beginning at Zumwalt on U.S. Highway 12; ((~~then~~)) east on U.S. Highway 12 to the mouth of Alpowa Creek on the Snake River; ((~~then~~)) east and south along the Snake River to the mouth of Asotin Creek; ((~~then~~)) west along Asotin Creek to Charley Creek; ((~~then~~)) west along Charley Creek to the unit boundary marker at the east section line of Section 2, T9N, R43E; ((~~then~~)) north on said section line to the end of the elk drift fence; ((~~then~~)) west along the elk drift fence to the Tucannon River Road; ((~~then~~)) north on the Tucannon River Road to Blind Grade; ((~~then~~)) up Blind Grade to the Linville Gulch Road; ((~~then~~)) north on the Linville Gulch Road to Highway 12 at Zumwalt and the point of beginning.

GMU 181-COUSE (Asotin County): Beginning at Asotin and the mouth of Asotin Creek on the Snake River; ((~~then~~))

south along the Snake River (Washington-Idaho State line) to the Grande Ronde River; ~~((then))~~ west along the Grande Ronde River to State Highway 129; ~~((then))~~ northwest on State Highway 129 to Anatone; ~~((then))~~ west and south on the Mill Road-Bennett Ridge Road-West Mountain Road (1290) to the National Forest Boundary at Big Butte; ~~((then))~~ north along the U.S. Forest Boundary fence to the Cloverland Road; ~~((then))~~ northeast on the Cloverland Road to the Campbell Grade Road; ~~((then))~~ west on the Campbell Grade Road to the South Fork Asotin Creek Road; ~~((then))~~ northeast on the South Fork Asotin Creek Road to Asotin Creek; ~~((then))~~ northeast along Asotin Creek to the Snake River at Asotin and the point of beginning.

GMU 186-GRANDE RONDE (Asotin County): Beginning on the Washington-Oregon State line and State Highway 129; ~~((then))~~ north on State Highway 129 to the Grande Ronde River; ~~((then))~~ east along the Grande Ronde River to the Snake River (Washington-Idaho state line) ~~((then))~~; south along the Snake River to the Washington-Oregon state line; ~~((then))~~ west on the state line to Highway 129 and the point of beginning.

AMENDATORY SECTION (Amending Order 98-65, filed 4/22/98, effective 5/23/98)

WAC 232-28-02202 Game management units (GMUs)—Special game areas—Boundary descriptions—Region two.

GMU 203-PASAYTEN (Okanogan and Whatcom counties): The Pasayten Wilderness Area.

GMU 204-OKANOGAN EAST (Okanogan and Ferry counties): Beginning on the eastern shore of Osoyoos Lake and the Washington-Canadian border; ~~((then))~~ east on the border to the Kettle River near Ferry customs office; ~~((then))~~ south along the Kettle River to the mouth of Toroda Creek at Toroda; ~~((then))~~ west along Toroda Creek to the Toroda Creek Road (County Roads 502 and 9495); ~~((then))~~ west and south on the Toroda Creek Road to State Highway 20 at Wauconda; ~~((then))~~ east on State Highway 20 to Republic; ~~((then))~~ south on State Route 21 to the north boundary of the Colville Indian Reservation; ~~((then))~~ west on the reservation boundary to the Okanogan River; ~~((then))~~ north along the Okanogan River and the eastern shore of Osoyoos Lake to the point of beginning.

GMU 209-WANNACUT (Okanogan County): Beginning at the Canadian border station near Nighthawk on the Washington-Canadian border; ~~((then))~~ east on the border to the west shore of Lake Osoyoos; ~~((then))~~ south along the west shore of Lake Osoyoos and the Okanogan River to the bridge at Tonasket and County Road 7 (9400); ~~((then))~~ south on County Road 7 to the North Pine Creek-Aeneas Lake Road (9437) ~~((then))~~; southwest on the Pine Creek-Aeneas Lake Road to the Horse Springs Coulee Road (4371); ~~((then))~~ north on the Horse Springs Coulee Road to the Loomis-Oroville Highway (9425) near Spectacle Lake; ~~((then))~~ west on the Loomis-Oroville Highway to Loomis; ~~((then))~~ north on the Loomis-Oroville Highway past Palmer Lake to Nighthawk

and the Allemandi Road; ~~((then))~~ north on the Allemandi Road to the Similkameen Road; ~~((then))~~ north on the Similkameen Road to the border station on the Washington-Canadian border and the point of beginning.

GMU 215-SINLAHEKIN (Okanogan County): Beginning at the eastern boundary of the Pasayten Wilderness and the Washington-Canadian border; ~~((then))~~ east on the border to the border station near Nighthawk and the Similkameen Road; ~~((then))~~ southeast on the Similkameen Road to the Allemandi Road; ~~((then))~~ south on the Allemandi Road to Nighthawk and the Loomis-Oroville Road (USFS Road 9425); ~~((then))~~ south on the Loomis-Oroville Road through Loomis to the Horse Springs Coulee Road (USFS Road 4371) near Spectacle Lake; ~~((then))~~ south on the Horse Springs Coulee Road to the Aeneas Lake-Pine Creek Road (USFS Road 9400); ~~((then))~~ northeast on the Aeneas Lake-Pine Creek Road to the Okanogan River; ~~((then))~~ south along the Okanogan River to the town of Riverside and U.S. Highway 97; ~~((then))~~ north on U.S. Highway 97 to the South Pine Creek-Fish Lake Road (USFS Road 9410); ~~((then))~~ west on the South Pine Creek-Fish Lake Road along the south shore of Fish Lake to the Conconully-Sinlahekin Road (USFS Road 4015); ~~((then))~~ southwest on the Conconully-Sinlahekin Road along the north shore of Conconully Lake to Conconully and the Salmon Creek North Fork Road (USFS Roads 2361, 38, and 2820); ~~((then))~~ north on the Salmon Creek North Fork Road over Lone Frank Pass to USFS Road 39; ~~((then))~~ north on USFS Road 39 to Long Swamp and the Middle Fork Toats Coulee Road; ~~((then))~~ east on the Middle Fork Toats Coulee Road (USFS Road 39) to Iron Gate Road (USFS Road 500); ~~((then))~~ northwest on Iron Gate Road to its end; ~~((then))~~ north and east on Trails 533 and 341 to the eastern boundary of the Pasayten Wilderness; ~~((then))~~ north on the wilderness boundary to the Washington-Canadian border and the point of beginning.

GMU 218-CHEWUCH (Okanogan County): Beginning at ~~((Oregon Basin and Jim))~~ Harts Pass on the Pacific Crest Trail; ~~((then))~~ north on the Pacific Crest Trail approximately one mile to the boundary of the Pasayten Wilderness; east on the Pasayten Wilderness Boundary to Iron Gate Road (USFS Road 500); ~~((then))~~ south on the Iron Gate Road to the Middle Fork Toats Coulee Creek (USFS Road 39); ~~((then))~~ west and south on the Middle Fork Toats Coulee Creek Road past Long Swamp to the Boulder Creek Road (USFS Road 37); ~~((then))~~ southwest on Boulder Creek Road to the East Chewuch River Road (USFS Road 9137); ~~((then))~~ south on the East Chewuch River Road to Winthrop and State Highway 20; ~~((then))~~ northwest on State Highway 20 to the Pacific Crest Trail crossing on Highway 20; ~~((then))~~ north on the Pacific Crest Trail to ~~((Jim))~~ Harts Pass and the point of beginning.

GMU 224-PEARRYGIN (Okanogan County): Beginning at the North Fork Boulder Creek Road (USFS Road 39) and USFS Road 3820; ~~((then))~~ south on Road 3820 through Lone Frank Pass to the North Fork Salmon Creek Road (USFS Road 38); ~~((then))~~ southeast on the North Fork Salmon Creek Road to the County Road 2361; ~~((then))~~ southeast on County Road 2361 to County Road 2017 at Conconully; ~~((then))~~

southwest on County Road 2017 to the North Summit Road (USFS Road 42); ~~((then))~~ southwest on the North Summit Road to State Highway 20 at Loup Loup Summit; ~~((then))~~ west on State Highway 20 through Twisp to the East Chewuch River Road at Winthrop; ~~((then))~~ north on the East Chewuch River Road to the Boulder Creek Road (USFS Road 37); ~~((then))~~ northeast on the Boulder Creek Road to the Middle Fork Boulder Creek Road (USFS Road 39); ~~((then))~~ northeast on the Middle Fork Boulder Creek Road to USFS Road 3820 and the point of beginning.

GMU 231-GARDNER (Okanogan County): Beginning where the Pacific Crest Trail crosses State Highway 20; ~~((then))~~ south and east on State Highway 20; south through the Methow Valley, south through Winthrop to the Twisp River Road at Twisp; ~~((then))~~ west on the Twisp River Road to North Fork Twisp River Trail 432; ~~((then))~~ north on Trail 432 to Trail 426; ~~((then))~~ north and west on Trail 426 to the Pacific Crest Trail; ~~((then))~~ north on the Pacific Crest Trail to State Highway 20 and the point of beginning.

GMU 233-POGUE (Okanogan County): Beginning at the town of Conconully; ~~((then))~~ north on the Sinlahekin Road (USFS Road 4015) to the Fish Lake Road; ~~((then))~~ east on the Fish Lake Road along the south end of Fish Lake to the South Pine Creek Road (USFS Road 9410); ~~((then))~~ east on the South Pine Creek Road to U.S. Highway 97; ~~((then))~~ south on U.S. Highway 97 to the town of Riverside and the Okanogan River; ~~((then))~~ south along the Okanogan River through Omak to the town of Okanogan and State Highway 20; ~~((then))~~ west on State Highway 20 near Loup Loup Summit and the North Summit Road (USFS Road 42); ~~((then))~~ north on the North Summit Road to County Road 2017; ~~((then))~~ north on County Road 2017 to Conconully and the point of beginning.

GMU 239-CHILIWIST (Okanogan County): Beginning at the intersection of State Highway 153 and State Highway 20 south of the town of Twisp; ~~((then))~~ east on State Highway 20 past Loup Loup Summit to the town of Okanogan and the Okanogan River; ~~((then))~~ south along the Okanogan River to the Columbia River and the Okanogan County south boundary; ~~((then))~~ west along the Columbia River to Pateros and State Highway 153; ~~((then))~~ north on State Highway 153 to State Highway 20 and the point of beginning.

GMU 242-ALTA (Okanogan County): Beginning at the junction of the Twisp Pass and Trail 432; ~~((then))~~ east on Trail 432 to Roads End Campground and the Twisp River Road (County Road 9114 and USFS Road 4440); ~~((then))~~ east on the Twisp River Road to Twisp and State Highway 153; ~~((then))~~ south on State Highway 153 to Pateros and the Columbia River; ~~((then))~~ south along Lake Pateros to Wells Dam and U.S. Highway 97; ~~((then))~~ south on U.S. Highway 97 to Apple Acres Road (USFS Road 8140); ~~((then))~~ west on Apple Acres Road to Antoine Creek Road (USFS Road 8140); ~~((then))~~ northwest on the Antoine Creek Road to USFS Road 8020; ~~((then))~~ north on the USFS Road 8020 to its junction with the South Navarre Road and the South Fork Gold Creek Road (USFS Road 8200 and 4330); ~~((then))~~ north on the South Fork Gold Creek Road to the Okanogan-

Chelan County line; ~~((then))~~ northwest on the Okanogan-Chelan County line to the intersection of Trail 432 and the point of beginning.

GMU 243-MANSON (Chelan County): Beginning at the town of Chelan to Lake Chelan; northwest along the north shore of Lake Chelan to the Lake Chelan National Recreation Area Boundary near Flick Creek campground; northeast along the National Recreation Area Boundary to Sawtooth Ridge; southeast along Sawtooth Ridge separating the Chelan and Methow-Twisp river drainages to Fox Peak and USFS Road 8020; southeast on USFS Road 8020 to Antoine Creek Road (USFS Road 8140); southeast on Antoine Creek Road to Apple Acres Road; northeast on Apple Acres Road to U.S. Highway 97; northeast on U.S. Highway 97 to Wells Dam and the Columbia River; southeast along the Columbia River (Chelan-Douglas county line) to the Chelan River; northwest along the Chelan River to the town of Chelan and the point of beginning.

GMU 244-CLARK (Chelan County): Beginning where the Stehekin River flows into Lake Chelan; southeast along the south shore of Lake Chelan to the Glacier Peak Wilderness Boundary at Bearcat Ridge; south, west and north on the wilderness boundary to the Pacific Crest Trail at Kodak Peak; north on the Pacific Crest Trail to North Cascades National Park; north and east on the North Cascades National Park Boundary to Hock Mountain; south along the Lake Chelan National Recreation Area Boundary to Lake Chelan; northwest along the north shore of Lake Chelan to the Stehekin River and the point of beginning.

GMU 245-CHIWAWA (Chelan County): Beginning on the Pacific Crest Trail and the Glacier Peak Wilderness Boundary at Kodak Peak; southeast and north on the wilderness boundary to the Entiat River; southeast along the Entiat River to Ardenvoir and the Mad River Road (USFS Road 5700); northwest on the Mad River Road to the USFS Road 5800; southwest on USFS Road 5800 at French Corral and Eagle Creek Road (USFS Road 7520); southwest on the Eagle Creek Road to State Highway 209 north of Leavenworth; north on State Highway 209 to State Highway 207 near Lake Wenatchee; south on State Highway 207 to U.S. Highway 2 at Coles Corner; west on U.S. Highway 2 to the Pacific Crest Trail at Stevens Pass; north on the Pacific Crest Trail to Kodak Peak and the point of beginning.

GMU 246-SLIDE RIDGE (Chelan County): Beginning on the south shore of Lake Chelan at Bearcat Ridge; southeast along the south shore of Lake Chelan to Twenty-five Mile Creek; southwest along Twenty-five Mile Creek to the Slide Ridge Road (USFS Road 8410); south on the Slide Ridge Road to Stormy Mountain and Trail 1448; northwest on Trail 1448 to Fourmile Ridge Trail 1445; west on the Fourmile Ridge Trail to Fox Creek; southwest along Fox Creek to the Entiat River; northwest along the Entiat River to the Glacier Peak Wilderness Boundary; north on the wilderness boundary to Lake Chelan, the Lake Chelan National Recreation Area Boundary and the point of beginning.

PERMANENT

GMU 247-ENTIAT (Chelan County): Beginning at Twenty-five Mile Creek on the south shore of Lake Chelan; southeast along Lake Chelan and the Chelan River to the Columbia River; southwest along the Columbia River to the mouth of the Entiat River; northwest along the Entiat River to Fox Creek; northeast along Fox Creek to the Fourmile Ridge Trail 1445; east on the Fourmile Ridge Trail to Trail 1448; southeast on Trail 1448 to Stormy Mountain and the Slide Ridge Road (USFS Road 8410); north on the Slide Ridge Road to Twenty-five Mile Creek; north along Twenty-five Mile Creek to Lake Chelan and the point of beginning.

GMU 248-BIG BEND (Douglas and Grant counties): Beginning on State Highway 17 at the Chalk Hills Road (Road K N.E.); ~~((then))~~ north on the Chalk Hills Road (K & L N.E.) for 4 miles to the east line of Range 26 East; ~~((then))~~ north on the east line of Range 26 to the Columbia River; ~~((then))~~ east along the Columbia River to Grand Coulee Dam and the Feeder Canal; ~~((then))~~ southwest along the Feeder Canal to Banks Lake; ~~((then))~~ south along the west shore of Banks Lake to a point due east from Mold Road (Road 9 N.E.); ~~((then))~~ west from that point on Mold Road through Mold to State Highway 17; ~~((then))~~ north along State Highway 17 to Sim's Corner and State Highway 172; ~~((then))~~ west on State Highway 172 through Mansfield to Mathieson Road (Road B N.E.); ~~((then))~~ north on the Mathieson Road and the West Foster Creek Road (Bridgeport Hill Road) to State Highway 17; ~~((then))~~ east on State Highway 17 to the Chalk Hills Road (Road K N.E.) and the point of beginning.

GMU 249-ALPINE (Kittitas and Chelan counties): Beginning on the Pacific Crest Trail and the Alpine Lakes Wilderness Boundary near Josephine Lake (south of Stevens Pass); east, south and west on the wilderness boundary to the Pacific Crest Trail near Kendall Peak; north on the Pacific Crest Trail to Josephine Lake and the point of beginning.

GMU 250-SWAKANE (Chelan County): Beginning at Stevens Pass on U.S. Highway 2; east on U.S. Highway 2 to Coles Corner and State Highway 207; north on State Highway 207 to State Highway 209 near Lake Wenatchee; southeast on State Highway 209 to the Eagle Creek Road (USFS Road 7520); northeast on Eagle Creek Road to French Corral and USFS Road 5800; northeast on USFS Road 5800 to the Mad River Road (USFS Road 5700); southeast on the Mad River Road to Ardenvoir and the Entiat River; southeast along the Entiat River to the Columbia River; south along the Columbia River to the Wenatchee River; northwest along the Wenatchee River to Leavenworth and Icicle Creek; south and northwest along Icicle Creek to the Alpine Lakes Wilderness Boundary; north on the Alpine Lakes Wilderness Boundary to the Pacific Crest Trail near Josephine Lake; north on the Pacific Crest Trail to Stevens Pass and the point of beginning.

GMU 251-MISSION (Kittitas and Chelan counties): Beginning at the Black Pine Creek Horse Camp near the Alpine Lakes Wilderness Boundary and Icicle Creek; east along Icicle Creek to the Wenatchee River; south and east along the Wenatchee and Columbia rivers to the mouth of Tarpiscan Creek; west along Tarpiscan Creek and North Fork Tarpiscan Creek and North Fork Road (WDFW Road No.

10.10) to the Colockum Pass Road (WDFW Road 10) to the Naneum Ridge Road (WDFW Road 9); northwest on the Naneum Ridge Road to Wenatchee Mountain; northwest along the ridge past Mission Peak to the Liberty-Beehive Road (USFS Road 9712); northwest on the Liberty-Beehive Road to USFS Road 9716; north on USFS Road 9716 to U.S. Highway 97 at Swauk Pass; northwest on the Kittitas-Chelan County line and Trail 1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak; north on the Alpine Lakes Wilderness Boundary to Icicle Creek and the point of beginning.

GMU 254-SAINT ANDREWS (Douglas and Grant counties): Beginning at Mansfield on State Highway 172; ~~((then))~~ east on State Highway 172 to Sim's Corner and State Highway 17; ~~((then))~~ south on State Highway 17 to Buckeye Road (Road 9 N.E.); ~~((then))~~ east on the Buckeye Road to Mold and the Mold Road; ~~((then))~~ east on the Mold Road and continuing due east to the west shore of Banks Lake; ~~((then))~~ south along the west shore of Banks Lake to U.S. Highway 2; ~~((then))~~ west on U.S. Highway 2 to Farmer and State Highway 172; ~~((then))~~ north and east on State Highway 172 to Mansfield and the point of beginning.

GMU 260-FOSTER CREEK (Douglas County): Beginning at Brewster and the Douglas-Okanogan County line; ~~((then))~~ east on the county line (Columbia River) past Bridgeport to the east line of Range 26 East; ~~((then))~~ south on the east line of Range 26 East to Road L N.E.; ~~((then))~~ south on Road L N.E. to the Chalk Hills Road (K & L N.E.); ~~((then))~~ southwest on the Chalk Hills Road to State Highway 17; ~~((then))~~ west on State Highway 17 to the Bridgeport Hill Road; ~~((then))~~ south on the Bridgeport Hill Road to the Dyer Hill Road; ~~((then))~~ north on the Dyer Hill Road to Dyer and the Bonita Flat Road; ~~((then))~~ west on the Bonita Flat Road to the Columbia River (opposite the Okanogan-Chelan County line); ~~((then))~~ north along the river to Brewster and the point of beginning.

GMU 262-WITHROW (Douglas County): Beginning at Dyer and the Dyer Hill Road; ~~((then))~~ south on the Dyer Hill Road to the Bridgeport Hill Road; ~~((then))~~ south 3/4 mile on the Bridgeport Hill Road to Road 18 N.E.; ~~((then))~~ east on Road 18 N.E. to the Mathieson Road (B N.E.); ~~((then))~~ south on the Mathieson Road to State Highway 172; ~~((then))~~ west and south on State Highway 172 to Farmer and U.S. Highway 2; ~~((then))~~ west on U.S. Highway 2 through Waterville to Orondo and the Douglas-Chelan County line; ~~((then))~~ north on the county line (Columbia River) past the Wells Dam to the Bonita Flat Road (opposite the Okanogan-Chelan County line); ~~((then))~~ east on the Bonita Flat Road to Dyer and the point of beginning.

GMU 266-BADGER (Douglas County): Beginning at Orondo and U.S. Highway 2; ~~((then))~~ east on U.S. Highway 2 through Waterville and Douglas to the Westerman Road (K S.W.); ~~((then))~~ south on the Westerman Road to Alston and the Alston Road; ~~((then))~~ west on the Alston Road to the Titchenal Canyon Road; ~~((then))~~ southwest on the Titchenal Canyon Road to the Sheehan Road; ~~((then))~~ south on the Sheehan Road to the Rock Island Grade Road; ~~((then))~~ southwest on the Rock Island Grade Road to the Rock Island Dam

and the Douglas-Chelan County line (Columbia River); ~~((then))~~ north on the county line through Wenatchee to Prondo and the point of beginning, (includes Turtle Rock Island).

GMU 269-MOSES COULEE (Douglas and Grant counties): Beginning on U.S. Highway 2 and the Westerman Road (K S.W.); ~~((then))~~ east on U.S. Highway 2 to the Moses Coulee Road; ~~((then))~~ south on the Moses Coulee Road to the Grant-Douglas County line and the Sagebrush Flat Road; ~~((then))~~ south on the Sagebrush Flat Road to J N.W. Road; ~~((then))~~ south on J N.W. to 20 N.W. Road; ~~((then))~~ west on 20 N.W. Road to the Overen Road; ~~((then))~~ southwest on the Overen Road to the Baird Springs Road; ~~((then))~~ southwest on the Baird Springs Road across State Highway 28 to the Crescent Bar Road; ~~((then))~~ south along the Crescent Bar Road to the Douglas-Kittitas County line (Columbia River); ~~((then))~~ north on the county line to the Rock Island Dam and the Rock Island Grade Road; ~~((then))~~ north on Rock Island Grade Road to the Sheehan Road; ~~((then))~~ north on the Sheehan Road to the Titchenal Canyon Road; ~~((then))~~ north on the Titchenal Road Canyon Road to the Alston Road; ~~((then))~~ east on the Alston Road through Alston to the Westerman Road (K S.W.); ~~((then))~~ north on the Westerman Road to U.S. Highway 2 and the point of beginning.

GMU 272-BEEZLEY (Grant and Douglas counties): Beginning at the junction of Grant, Lincoln and Okanogan County lines near the town of Grand Coulee; ~~((then))~~ south on the Grant County line to Interstate 90; ~~((then))~~ west on Interstate 90 to the Grant-Kittitas County line (Columbia River); ~~((then))~~ north on the county line to the Crescent Bar Road; ~~((then))~~ northeast on the Crescent Bar Road to the Baird Springs Road near Trinidad; ~~((then))~~ northeast on the Baird Springs Road across State Highway 28 to the Overen Road; ~~((then))~~ northeast on the Overen Road to the 20 N.W. Road; ~~((then))~~ east on the 20 N.W. Road to the J N.W. Road; ~~((then))~~ north on the J N.W. Road to the Sagebrush Flats Road; ~~((then))~~ north on the Sagebrush Flats Road to the Grant-Douglas County line and the Moses Coulee Road; ~~((then))~~ north on the Moses Coulee Road to U.S. Highway 2; ~~((then))~~ east on U.S. Highway 2 to the west shore of Banks Lake; ~~((then))~~ north along the west shore of Banks Lake to the feeder canal and to Grand Coulee Dam; ~~((then))~~ up river to the Grant-Lincoln County line and the point of beginning, EXCEPT Private Lands Wildlife Management Area 201, Wilsson Creek.

GMU 278-WAHLUKE (Grant and Adams counties): Beginning at the Vantage Bridge on Interstate 90 and the Grant-Kittitas County line (Columbia River); ~~((then))~~ northeast and east on Interstate 90 to Road R SW (Beverly-Burke Road) ~~((then))~~; south along Road R SW to Road 7 SW (Frenchman Hills Road); ~~((then))~~ east along Road 7 SW to State Highway 262 (O'Sullivan Dam Road); ~~((then))~~ east along State Highway 262 to State Highway 17; ~~((then))~~ north on State Highway 17 to Interstate 90; ~~((then))~~ east on Interstate 90 to the Grant-Adams County line; ~~((then))~~ south on Road X S.E. to Road 12 S.E.; west on Road 12 S.E. and ~~((east))~~ west on Grant-Adams County line to State Highway 17; ~~((then))~~ south on State Highway 17 to ~~((State Highway~~

~~26; then west on State Highway 26))~~ Muse Road; east on Muse Road to State Highway 24; ~~((then south and))~~ west on State Highway 24 to the Vernita Bridge and the Columbia River (Grant County line); ~~((then))~~ west and north along the Columbia River to the Vantage Bridge on Interstate 90 and the point of beginning.

~~((GMU 281 RINGOLD (Franklin, Adams and Grant counties): Beginning at the Vernita Bridge on the west shore of the Columbia River and State Highway 24; then north and east on State Highway 24 to State Highway 26 at Othello; then east on State Highway 26 to State Highway 17; then south on State Highway 17 to U.S. Highway 395; then south on U.S. Highway 395 through Pasco and the west shore of the Columbia River (Franklin-Benton County line); then north along the Columbia River (including all islands) to the Vernita Bridge and the point of beginning. The Hanford Nuclear Site and the Saddle Mountain National Wildlife Refuge are closed to unauthorized public entry.))~~

GMU 284-KAHLLOTUS (Adams ~~((and Franklin counties))~~ County): Beginning on State Highway 17 and the Adams-Grant County line (Road 12 S.E. ~~((Road))~~); ~~((then))~~ east on the Adams-Grant County line (Road 12 S.E. ~~((Road))~~ ~~((and north (X S.E. Road))~~) to Road X S.E.; north on Road X S.E. to the Adams-Lincoln County line (Davis Road); ~~((then))~~ east on the Adams-Lincoln County line (Davis Road) to the Whitman County line; ~~((then))~~ south on the Adams-Whitman County line ~~((Palouse River); then south on the Franklin-Whitman County line (Palouse River) to the Franklin-Columbia-Walla-Walla County line (Snake River); then west on the Franklin-Walla-Walla County line (Snake River) to the Walla-Walla-Benton County line (Columbia River); then northwest on the county line to the U.S. Highway 395 bridge between Pasco and Kennewick; then north on U.S. Highway 395))~~ to the Palouse River; south and west on the Palouse River to State Highway 26; west on State Highway 26 to State Highway 17; ~~((then))~~ north on State Highway 17 to the Adams-Grant County line (12 S.E. Road) and the point of beginning.

GMU 290-DESERT (Grant County): Beginning at the town of George on Interstate 90; ~~((then))~~ east along Interstate 90 to State Highway 17; ~~((then))~~ south along State Highway 17 to State Highway 262 (O'Sullivan Dam Road); ~~((then))~~ west along State Highway 262 to Road 7 SW (Frenchman Hills Road); ~~((then))~~ west along Road 7 SW to Road R SW (Beverly-Burke Road); ~~((then))~~ north along Road R SW to Interstate 90; ~~((then))~~ east along Interstate 90 to the point of beginning.

AMENDATORY SECTION (Amending Order 99-40, filed 5/5/99, effective 6/5/99)

WAC 232-28-02203 Game management units (GMUs)—Special game areas—Boundary descriptions—Region three.

~~((GMU 300 MANSON (Chelan County): Beginning at the town of Chelan to Lake Chelan; then northwest along the north shore of Lake Chelan to the Stehekin River; then north-~~

west along the Stehekin River to the ridge between Rainbow Creek and Boulder Creek; then north on the ridge to McAlister Mountain on the Lake Chelan Wilderness Boundary; then southeast on the Wilderness Boundary along the Sawtooth Ridge separating the Chelan and Methow-Twisp River drainages to Fox Peak and USFS Road 8020; then southeast on USFS Road 8020 to the Anatoine Creek Road (USFS Road 8140); then southeast on the Anatoine Creek Road to Apple Acres Road; then northeast on Apple Acres Road to U.S. Highway 97; then northeast on U.S. Highway 97 to Wells Dam and the Columbia River; then southwest along the Columbia River (Chelan-Douglas County line) to the Chelan River; then northwest along the Chelan River to the town of Chelan and the point of beginning.

GMU 301-CLARK (Chelan County): Beginning where the Stehekin River flows into Lake Chelan; then southeast along the south shore of Lake Chelan to the Glacier Peak Wilderness boundary at Beareat Ridge; then south, west, and north on the wilderness boundary to the Pacific Crest Trail at Kodak Peak; then north on the Pacific Crest Trail to North Cascades National Park; then north and east on the North Cascades National Park boundary to Hoek Mountain; then south along the Lake Chelan Wilderness Boundary to McAlister Mountain; then southwest on the ridge between Rainbow Creek and Boulder Creek to the Stehekin River and the point of beginning.

GMU 302-ALPINE (Kittitas and Chelan counties): Beginning on the Pacific Crest Trail and the Alpine Lakes Wilderness Boundary near Josephine Lake (south of Stevens Pass); then east, south and west on the wilderness boundary to the Pacific Crest Trail near Kendall Peak; then north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary and the point of beginning.

GMU 304-CHIWAHA (Chelan County): Beginning on the Pacific Crest Trail and the Glacier Peak Wilderness Boundary at Kodak Peak; then southeast and north on the wilderness boundary to the Entiat River; then southeast along the Entiat River to Ardenvoir and the Mad River Road (USFS Road 5700); then northwest on the Mad River Road to the USFS Road 5800; then southwest on USFS Road 5800 at French Corral and Eagle Creek Road (USFS Road 7520); then southwest on the Eagle Creek Road to State Highway 209 north of Leavenworth; then north on State Highway 209 to State Highway 207 near Lake Wenatchee; then south on State Highway 207 to U.S. Highway 2 at Coles Corner; then west on U.S. Highway 2 to the Pacific Crest Trail at Stevens Pass; then north on the Pacific Crest Trail to Kodak Peak and the point of beginning.

GMU 306-SLIDE RIDGE (Chelan County): Beginning at the Lake Chelan National Recreation Boundary on the south shore of Lake Chelan at Beareat Ridge; then southeast along the south shore of Lake Chelan to Twenty-five Mile Creek; then southwest along Twenty-five Mile Creek to the Slide Ridge Road (USFS Road 8410); then south on the Slide Ridge Road to Stormy Mountain and Trail 1448; then northwest on Trail 1448 to Fourmile Ridge Trail 1445; then west on the Fourmile Ridge Trail to Fox Creek; then southwest

along Fox Creek to the Entiat River; then northwest along the Entiat River to the Glacier Peak Wilderness Boundary; then north on the wilderness boundary to Lake Chelan, the Lake Chelan National Recreation Boundary and the point of beginning.

GMU 308-ENTIAT (Chelan County): Beginning at Twenty-five Mile Creek on the south shore of Lake Chelan; then southeast along Lake Chelan and the Chelan River to the Columbia River; then southwest along the Columbia River to the mouth of the Entiat River; then northwest along the Entiat River to Fox Creek; then northeast along Fox Creek to the Fourmile Ridge Trail 1445; then east on the Fourmile Ridge Trail to Trail 1448; then southeast on Trail 1448 to Stormy Mountain and the Slide Ridge Road (USFS Road 8410); then north on the Slide Ridge Road to Twenty-five Mile Creek; then north along Twenty-five Mile Creek to Lake Chelan and the point of beginning.

GMU 314-MISSION (Kittitas and Chelan counties): Beginning at the Black Pine Creek Horse Camp near the Alpine Lakes Wilderness Boundary and Icicle Creek; then east along Icicle Creek to the Wenatchee River; then south and east along the Wenatchee and Columbia Rivers to the mouth of Colocum Creek; then west along Colocum Creek and the Colocum Pass Road (WDFW Road 10) to the Naneum Ridge Road (WDFW Road 9); then northwest on the Naneum Ridge Road to Wenatchee Mountain; then northwest along the ridge past Mission Peak to the Liberty Beehive Road (USFS Road 9712); then northwest on the Liberty Beehive Road to USFS Road 9716; then north on USFS Road 9716 to U.S. Highway 97 at Swauk Pass; then northwest on the Kittitas-Chelan County line and Trail 1226 to the Alpine Lakes Wilderness Boundary at Navaho Peak; then north on the Alpine Lakes Wilderness Boundary to Icicle Creek and the point of beginning.

GMU 316-SWAKANE (Chelan County): Beginning at Stevens Pass on U.S. Highway 2; then east on U.S. Highway 2 to Coles Corner and State Highway 207; then north on State Highway 207 to State Highway 209 near Lake Wenatchee; then southeast on State Highway 209 to the Eagle Creek Road (USFS Road 7520); then northeast on Eagle Creek Road to French Corral and USFS Road 5800; then northeast on USFS Road 5800 to the Mad River Road (USFS Road 5700); then southeast on the Mad River Road to Ardenvoir and the Entiat River; then southeast along the Entiat River to the Columbia River; south along the Columbia River to the Wenatchee River; then northwest along the Wenatchee River to Leavenworth and Icicle Creek; then south and northwest along Icicle Creek to the Alpine Lakes Wilderness Boundary; then north on the Alpine Lakes Wilderness Boundary to the Pacific Crest Trail near Josephine Lake; then north on the Pacific Crest Trail to Stevens Pass and the point of beginning.)

GMU 328-NANEUM (Kittitas and Chelan counties): Beginning at Swauk Pass on U.S. Highway 97 and USFS Road 9716; ((then)) east on USFS Road 9716 to the Liberty-Beehive Road (USFS 9712); ((then)) east on the Liberty-Beehive Road to the west boundary of Section 22 (T21N, R19E);

~~((then))~~ southeast along the ridge past Mission Peak to Wenatchee Mountain and Naneum Ridge Road (WDFW Road 9); ~~((then))~~ southeast on the Naneum Ridge Road to the Colockum Pass Road (WDFW Road 10); ~~((then))~~ south on the Colockum Pass Road to the East Highline Canal; ~~((then))~~ northwest along the East Highline Canal to the Lower Green Canyon Road; ~~((then))~~ south on the Lower Green Canyon Road to U.S. Highway 97; ~~((then))~~ north on U.S. Highway 97 to Swauk Pass and the point of beginning.

GMU 329-QUILOMENE (Kittitas and Chelan counties): Beginning on the Columbia River at the mouth of ~~((Coloekum))~~ Tarpiscan Creek; ~~((then))~~ south along the Columbia River to ~~((Davies Canyon; then west along Davies Canyon to Road 14; then south and west on Road 14 to the boundary sign in the northwest quarter of Section 17 (T20N, R22E); then south to the boundary sign on Road 14 along the section lines between Sections 17, 18, 19 and 20; then east on Road 14 to Road 14.14; then east on Road 14.14 and north along the stock fence to the northern point of Cape Horn; then south along the top of the cliff and southeast to Road 14.14; then south on Roads 14.14, 14.17 and 14 to Tekison Creek; then south along Tekison Creek to the Columbia River; then south along the Columbia River to))~~ Vantage and Interstate Highway 90; ~~((then))~~ west on Interstate Highway 90 to the East Highline Canal; ~~((then))~~ north on the East Highline Canal to the Colockum Pass Road (Road 10); ~~((then))~~ north on the Colockum Pass Road to ~~((Coloekum))~~ North Fork Tarpiscan Creek; ~~((then northeast along Coloekum))~~ east down North Fork Tarpiscan Creek to the Columbia River and the point of beginning.

~~((GMU 330 WEST BAR (Kittitas County): Beginning on the Columbia River and Davies Canyon; then southeast along the Columbia River to the mouth of the Tekison Creek; then northwest along Tekison Creek to Road 14; then north on Road 14, 14.17, and 14.14 to the top of the Cape Horn Cliffs; then north along the top of the cliff to the north end of Cape Horn; then southwest along the stock fence to Road 14.14; then west on Road 14.14 to Road 14 to the boundary sign between Sections 19 and 20 (T20N, R22S); then north on a line between Sections 19, 20 and 17, 18 to the boundary sign on Road 14 in the northwest quarter of Section 17; then east and north along Road 14 to Davies Canyon; then east along Davies Canyon to the Columbia River and the point of beginning.))~~

GMU 334-ELLENSBURG (Kittitas County): Beginning on U.S. Highway 97 and the Lower Green Canyon Road; ~~((then))~~ north on the Lower Green Canyon Road to the East Highline Canal; ~~((then))~~ east and south along the canal past Interstate 90 to the pump station; ~~((then))~~ south and west along the north branch of the canal to State Highway 821 and the Yakima River; ~~((then))~~ north along the Yakima River to the Damon Road; ~~((then))~~ south on Damon Road and Shushuskin Canyon to the South Branch Extension Canal; ~~((then))~~ west along the canal to the Bradshaw Road; ~~((then))~~ west along Bradshaw Road to the elk fence; ~~((then))~~ west and north along the elk fence to Taneum Creek; ~~((then))~~ east along Taneum Creek to the Yakima River; ~~((then))~~ southeast along the Yakima River to the Thorp Highway; ~~((then))~~ east

on the Thorp Highway and State Highway 10 to U.S. Highway 97; ~~((then))~~ north along U.S. Highway 97 to the Lower Green Canyon Road and the point of beginning.

GMU 335-TEANAWAY (Kittitas County): Beginning at Snoqualmie Pass on the Pacific Crest Trail; ~~((then))~~ north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary; ~~((then))~~ east on the Alpine Wilderness Boundary to the Chelan-Kittitas County line; ~~((then))~~ southeast on the county line and Trail 1226 to Swauk Pass and U.S. Highway 97; ~~((then))~~ south on U.S. Highway 97 to State Highway 10; ~~((then))~~ northwest on State Highways 10, 970, 903 to Cle Elum and Interstate 90; ~~((then))~~ west on Interstate 90 to Snoqualmie Pass and the Pacific Crest Trail and the point of beginning.

GMU 336-TANEUM (Kittitas County): Beginning at the Pacific Crest Trail and Interstate 90 at Snoqualmie Pass; ~~((then))~~ east on Interstate 90 to Cle Elum and State Highway 903; ~~((then))~~ east on State Highways 903, 970 and 10 to the Thorp Highway; ~~((then))~~ southeast on the Thorp Highway to the Thorp Highway Bridge and the Yakima River; ~~((then))~~ southwest along the Yakima River (upstream) to Taneum Creek; ~~((then))~~ west along Taneum Creek to the South Fork Taneum Creek; ~~((then))~~ west along the South Fork Taneum Creek to Trail 1367; ~~((then))~~ west on Trail 1367 to Trail 1363; ~~((then))~~ south on Trail 1363 and south along Peaches Ridge to Trail 1388; ~~((then))~~ west on Trail 1388 to Blowout Mountain on the Pacific Crest Trail; ~~((then))~~ north on the Pacific Crest Trail to Snoqualmie Pass and the point of beginning.

GMU 340-MANASTASH (Kittitas County): Beginning at Quartz Mountain and Peaches Ridge (Trail 1363); ~~((then))~~ north and east on Trail 1363 to Trail 1367; ~~((then))~~ southeast on Trail 1367 to the South Fork Taneum Creek; ~~((then))~~ east along the South Fork Taneum Creek to Taneum Creek; ~~((then))~~ east along Taneum Creek to the elk fence; ~~((then))~~ southeast along the elk fence to Bradshaw Road; ~~((then))~~ east on Bradshaw Road to the South Branch Highline Canal; ~~((then))~~ southeast along the South Branch Highline Canal to the Wenas-Ellensburg Road (at Shushuskin Canyon); ~~((then))~~ north on the Wenas-Ellensburg Road to the Damon Road; ~~((then))~~ north on the Damon Road to the Yakima River; ~~((then))~~ south along the Yakima River to Umtanum Creek; ~~((then))~~ west along Umtanum Creek to the Wenas-Ellensburg Road; ~~((then))~~ west on the Wenas-Ellensburg Road to Ellensburg Pass and the Observatory Road (Section 6, T16N, R17E); ~~((then))~~ north on the Observatory Road to Manastash Ridge (Section 20, T17N, R17E, W.M.); ~~((then))~~ northwest along the Manastash Ridge to USFS Trail 694 (T17N, R15E, NW 1/4 of Section 12) near the USFS fence; ~~((then))~~ northwest on ORV Trail 694 to ORV Trail 688 near Rocky Saddle; ~~((then))~~ northwest on ORV Trail 688 to USFS Trail 1388; ~~((then))~~ northwest on Trail 1388 to Quartz Mountain and Peaches Ridge Trail and the point of beginning.

GMU 342-UMTANUM (Kittitas and Yakima counties): Beginning at Manastash Ridge at the junction of Forest Road 1701; ~~((then))~~ east along the Manastash Ridge to the Observatory Road in Section 20, T17N, R17E, W.M.; ~~((then))~~

south on the Observatory Road to the Wenas-Ellensburg Road near Ellensburg Pass (Section 6, T16N, R17E, W.M.); ~~((then))~~ east on the Wenas-Ellensburg Road to Umtanum Creek; ~~((then))~~ east along the Umtanum Creek to the Yakima River; ~~((then))~~ south along the Yakima River to Yakima and U.S. Highway 12; ~~((then))~~ northwest on U.S. Highway 12 to State Highway 410; ~~((then))~~ northwest on State Highway 410 to USFS Road 1701; ~~((then))~~ north on USFS Road 1701 to the point of beginning.

GMU 346-LITTLE NACHES (Yakima and Kittitas counties): Beginning at Blowout Mountain and the USFS Road 1388; ~~((then))~~ east on USFS Road 1388 to USFS ORV Trail 688 to Rocky Saddle; ~~((then))~~ east on USFS ORV Trail 694 to USFS Road 1701 near the USFS fence (T17N, R15E, NW 1/4 of Section 12); ~~((then))~~ south on USFS Road 1701 to State Highway 410; ~~((then))~~ northwest and southwest on State Highway 410 to the Pacific Crest Trail near Chinook Pass; ~~((then))~~ north on the Pacific Crest Trail to Blowout Mountain and the point of beginning.

GMU 352-NILE (Yakima County): Beginning on the Bumping Lake Road and State Highway 410; ~~((then))~~ east and south on State Highway 410 to Nile and USFS Road 1500; ~~((then))~~ west on USFS Road 1500 to the McDaniel Lake Road (USFS Road 1502); ~~((then))~~ west on the McDaniel Lake Road to the North Fork ~~((and the South Fork))~~ of Rattlesnake Creek; ~~((then))~~ west along the North Fork Rattlesnake Creek to the USFS Richmond Mine Trail 973; ~~((then))~~ north on the Richmond Mine Trail 973 to the Bumping Lake Road; ~~((then))~~ north on the Bumping Lake Road to State Highway 410 and the point of beginning.

GMU 356-BUMPING (Yakima County): Beginning on the Pacific Crest Trail and State Highway 410 at Chinook Pass; ~~((then))~~ northeast on State Highway 410 to the Bumping Lake Road; ~~((then))~~ southwest on the Bumping Lake Road to the USFS Richmond Mine Trail 973; ~~((then))~~ southeast on the Richmond Mine Trail 973 to the North Fork Rattlesnake Creek; ~~((then))~~ southeast along the North Fork Rattlesnake Creek to the McDaniel Lake Road (USFS Road 1502); ~~((then))~~ southeast on the McDaniel Lake Road to USFS Road 1500; ~~((then))~~ south on USFS Road 1500 to State Highway 12; ~~((then))~~ west on Highway 12 to the Pacific Crest Trail at White Pass; ~~((then))~~ north on the Pacific Crest Trail to Chinook Pass and the point of beginning. (Lands within the boundary of Mt. Rainier National Park along the Pacific Crest Trail are not open to hunting.)

GMU 360-BETHEL (Yakima County): Beginning on USFS Road 1500 and Highway 410 at Nile; ~~((then))~~ southeast on Highway 410 to Highway 12; ~~((then))~~ southwest on Highway 12 to USFS Road 1500; ~~((then))~~ north and east on USFS Road 1500 to Nile and the point of beginning.

GMU 364-RIMROCK (Yakima County): Beginning on the Pacific Crest Trail and Highway 12 at White Pass; ~~((then))~~ east on Highway 12 to Windy Point and the Jump Off Road (USFS 1302); ~~((then))~~ southwest on Jump Off Road to Jump Off Lookout; ~~((then))~~ south on Divide Ridge Crest to Darland Mountain and to the Darland Mountain Road and the

north boundary of the ~~((Yakima))~~ Yakama Indian Reservation; ~~((then))~~ west on the ~~((Yakima))~~ Yakama Indian Reservation boundary to the Pacific Crest Trail; ~~((then))~~ north on the Pacific Crest Trail to Highway 12 at White Pass and the point of beginning.

GMU 366-RIMROCK-COWICHE (Yakima County): GMUs 364 (Rimrock) and 368 (Cowiche).

GMU 368-COWICHE (Yakima County): Beginning on Highway 12 and Jump Off Road near Windy Point; ~~((then))~~ northeast and southeast on Highway 12 to the Yakima River; ~~((then))~~ south along the Yakima River to the ~~((Yakima))~~ Yakama Indian Reservation boundary south of Union Gap; ~~((then))~~ west on the reservation boundary to Darland Mountain; ~~((then))~~ north on the crest of Divide Ridge to the Jump Off Lookout and the Jump Off Road (USFS Road 1302); ~~((then))~~ northeast on the Jump Off Road to Highway 12 and the point of beginning.

GMU 371-ALKALI (Kittitas and Yakima counties): Beginning one mile south of Thrall and Highway 821 at the Yakima River and the East High Canal; ~~((then))~~ east and north along the East High Canal to Interstate Highway 90; ~~((then))~~ east on Interstate Highway 90 to Vantage and the Columbia River; ~~((then))~~ south along the Columbia River to Priest Rapids Dam and the Yakima Training Center (YTC) boundary; ~~((then))~~ south and west along the YTC boundary to the main gate at Firing Center Road; ~~((then))~~ west along Firing Center Road and Harrison Road to the Yakima River; ~~((then))~~ north along the Yakima River to the East High Canal and the point of beginning.

GMU 372-KIONA (Benton and Yakima counties): Beginning at Priest Rapids Dam and the Columbia River; ~~((then))~~ east and south along the Columbia River (Yakima, Grant, Benton, and Walla Walla County line) to the Alderdale Road; ~~((then))~~ north on the Alderdale Road to the Klickitat-Yakima County line; ~~((then))~~ west on the county line to the ~~((Yakima))~~ Yakama Indian Reservation boundary; ~~((then))~~ northeast on the reservation boundary to the Mabton-Sunnyside Road; ~~((then))~~ north on the Mabton-Sunnyside Road to the Yakima River; ~~((then))~~ northwest along the Yakima River to Harrison Road; ~~((then))~~ east along Harrison Road and Firing Center Road to the main gate of the Yakima Training Center (YTC); ~~((then))~~ south and east along the YTC boundary to Priest Rapids Dam and the Columbia River and the point of beginning. The Hanford Nuclear Reservation is closed to all unauthorized public entry.

GMU 381-ESOUATZEL (Franklin, Grant and Adams counties): Beginning at the Vernita Bridge on the west shore of the Columbia River and State Highway 24; north and east on State Highway 24 to Muse Road; east on Muse Road to State Highway 17; north on State Highway 17 to State Highway 26; east on State Highway 26 to Palouse River; south on Palouse River to Snake River; west and southwest on Snake River to Columbia River; north and west on Columbia River (including all islands) to the Vernita Bridge and the point of beginning. The Hanford Nuclear Site and the Saddle Moun-

tain National Wildlife Refuge are closed to unauthorized public entry.

GMU 382-EAST KLICKITAT (Klickitat County): Beginning at the U.S. Highway 97 Bridge on the Columbia River (Maryhill); ~~((then))~~ north on U.S. Highway 97 to Satus Pass and the Yakama Indian Reservation; ~~((then))~~ east along south reservation boundary to the Yakima County line; ~~((then))~~ east on the Yakima/Klickitat County line to Alderdale Road; ~~((then))~~ southeast and south on Alderdale Road to Alderdale and the Columbia River; ~~((then))~~ west down the Columbia River to U.S. Highway 97 Bridge and the point of beginning.

AMENDATORY SECTION (Amending Order 99-40, filed 5/5/99, effective 6/5/99)

WAC 232-28-02204 Game management units (GMUs)—Special game areas—Boundary descriptions—Region four.

GMU 407-NORTH SOUND (Whatcom, Skagit, Snohomish and King counties): Beginning at the northwest corner of Whatcom County and the Canadian border; ~~((then))~~ east on the Canadian border to the Silver Lake Road; ~~((then))~~ south on the Silver Lake Road to the Mount Baker Highway 542; ~~((then))~~ southwest on the Mount Baker Highway 542 to the Mosquito Lake Road; ~~((then))~~ south on the Mosquito Lake Road to Valley Highway 9; ~~((then))~~ south on Valley Highway 9 through Sedro Woolley to the town of Arlington; ~~((then))~~ northeast on State Highway 530 to the Trafton School at Trafton; ~~((then))~~ southeast along the Jim Creek-Trafton Road (242nd St. N.E.) to the City of Seattle power transmission line; ~~((then))~~ southwest on the transmission line to the Jordan Road in Section 20, T31N, R6E; ~~((then))~~ southeast along the Jordan Road to Granite Falls and the Menzel Lake Road; ~~((then))~~ south on the Menzel Lake Road past Lake Roesiger to the Woods Creek Road; ~~((then))~~ south on the Woods Creek Road to Monroe and Highway 203; ~~((then))~~ south on Highway 203 to the Snoqualmie River at Duvall; ~~((then))~~ north along the Snoqualmie River to the Snohomish River; ~~((then))~~ west along the Snohomish River to Puget Sound; ~~((then))~~ north along the Island/Snohomish county line in Possession Sound and Port Susan to Juniper Beach and through West Pass; ~~((then))~~ west and north through Skagit Bay, Deception Pass, Rosario Strait and Bellingham Channel to Carter Point on Lummi Island; west along the Skagit-Whatcom County line to the Whatcom-San Juan County line; northwest along the Whatcom-San Juan County line to the Canadian border and the point of beginning.

GMU 410-ISLANDS (San Juan and Island counties): Beginning at the north corner of San Juan-Whatcom County line; ~~((then))~~ southeast on the county line to Carter Point on Lummi Island; southwest down the middle of Bellingham Channel to the Skagit-San Juan County line; ~~((then))~~ south through Rosario Strait on the San Juan-Skagit County line to the Island County line; ~~((then))~~ east on the Skagit-Island County line through Deception Pass and south through Skagit Bay; ~~((then))~~ southeast on the Island—Snohomish County

line through Juniper Beach, Port Susan, Possession Sound to the Island-Kitsap County line; ~~((then))~~ northwest on the Island-Kitsap-Jefferson County line through Puget Sound, Admiralty Inlet, and the Strait of Juan De Fuca; ~~((then))~~ west on the San Juan-Jefferson-Clallam County lines to the Canadian border; ~~((then))~~ north on the Canadian border through Middle Bank, Haro Strait, and Boundary Pass to the north corner of San Juan-Whatcom County line and the point of beginning.

GMU 418-NOOKSACK (Whatcom and Skagit counties): Beginning at the Silver Lake Road and the Canadian border; ~~((then))~~ east on the Canadian border to the North Cascades National Park Boundary; ~~((then))~~ south on the North Cascades National Park Boundary to ~~((the range line between Range 9 and 10 East; then south on this range line to Jackman Creek; then south along Jackman Creek to Highway 20 (at Concrete)))~~ Noisy Diobsud Wilderness Boundary; west and south on Noisy Diobsud Wilderness Boundary to Watson Creek; down Watson Creek to Thunder Creek and Baker River Road to Concrete and State Highway 20; ~~((then))~~ west along Highway 20 to Highway 9 (at Sedro Woolley); ~~((then))~~ north along Highway 9 to Mosquito Lake Road; ~~((then))~~ north on the Mosquito Lake Road to Mount Baker Highway 542; ~~((then))~~ north on Mount Baker Highway 542 to the Silver Lake Road; ~~((then))~~ north on the Silver Lake Road to the Canadian border to the point of beginning.

GMU 426-DIABLO (Skagit and Whatcom counties): ~~((Beginning at the Canadian border and the west boundary of the Ross Lake National Recreation Area; then south, on the Ross Lake National Recreation Boundary across the Skagit River and the North Cascades Highway; then northeast, east and south on the North Cascades National Park Boundary to Fisher Peak; then east on the Skagit-Chelan County line across State Highway 20 to the Pacific Crest Trail; then north on the Pacific Crest Trail to the Pasayten Wilderness boundary; north on the Pasayten Wilderness boundary to Jims Pass; then west and north on the Pasayten Wilderness boundary to the Canadian border; then west on the Canadian border to the west boundary of the Ross Lake National Recreation Area and the point of beginning.))~~ The Ross Lake National Recreation Area and that part of the Mt. Baker-Snoqualmie National Forest east of the Ross Lake Recreation Area to the Pacific Crest Trail from the Canadian border to Rainy Pass and the North Cascades National Park Boundary.

GMU 437-SAUK (Skagit and Snohomish counties): Beginning at the intersection of State Highway 9 and Highway 20; ~~((then))~~ east along Highway 20 to ~~((Jackman Creek east of Concrete; then northeast along Jackman Creek to the range line between Range 9 and 10 East; then north on the range line to the boundary of the North Cascades National Park; then north and east on the))~~ Baker River Road at Concrete; north on Baker River Road to Thunder Creek; east and north up Thunder Creek and Watson Creek to Noisy Diobsud Wilderness Boundary; north and east on Noisy Diobsud Wilderness Boundary to North Cascades National Park Boundary to the Ross Lake National Recreation Area Boundary; ~~((then))~~ south on the Ross Lake National Recreation Area Boundary across the North Cascade Highway 20 and the

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Skagit River and east along the Ross Lake National Recreation Area to the North Cascades National Park Boundary near Big Devil Peak; ~~((then))~~ southeast on the North Cascades National Park Boundary to the north boundary of Glacier Peak Wilderness Area; ~~((then))~~ west and south on Glacier Peak Wilderness Area Boundary to the Suiattle River; ~~((then))~~ west along the Suiattle River to State Highway 530 (Sauk Valley Road); ~~((then))~~ south on State Highway 530 to Darrington; ~~((then))~~ west on State Highway 530 to Highway 9 at Arlington; ~~((then))~~ north on State Highway 9 to Highway 20 and the point of beginning.

GMU 448-STILLAGUAMISH (Snohomish and Skagit counties): Beginning at Trafton on the Highway 530 (Arlington-Darrington Highway); ~~((then))~~ northeast on Highway 530 to Darrington; ~~((then))~~ north on Highway 530 (Sauk Valley Road - Bennets Store Road) to the Suiattle River; ~~((then))~~ east along the Suiattle River to the Glacier Peak Wilderness Area Boundary; ~~((then))~~ south on the Glacier Peak Wilderness Area Boundary to June Mountain and USFS Trail 650; ~~((then))~~ west on the USFS Trail 650 on the crest between Sloan Creek and the North Fork Skykomish River Drainages to Curry Gap and the Quartz Creek Trail 1050; ~~((then))~~ south on the Quartz Creek Trail 1050 and 1054 to West Cady Creek; ~~((then))~~ south along West Cady Creek through Section 36, T28N, R12E to Meadow Creek; ~~((then))~~ south along Meadow Creek to Rapid River; ~~((then))~~ east along Rapid River to Lake Janus and the Pacific Crest Trail; ~~((then))~~ south on the Pacific Crest Trail to Stevens Pass and Highway 2; ~~((then))~~ west on Highway 2 to Monroe and the Woods Creek Road; ~~((then))~~ north on the Woods Creek Road past Lake Roesiger to the Menzel Lake Road; ~~((then))~~ north on the Menzel Lake Road to Granite Falls and the Jordan Road; ~~((then))~~ northwest on the Jordan Road through Jordan to the City of Seattle power transmission lines; ~~((then))~~ northeast on the transmission lines to the Jim Creek-Trafton Road (242nd St. N.E.); ~~((then))~~ west on the Jim Creek-Trafton Road to Trafton and the point of beginning.

GMU 450-CASCADE (Skagit and Snohomish counties): Beginning on the Glacier Peak Wilderness Boundary one mile north of Jordan Lakes on the township line between T34 & 35N; ~~((then))~~ east on the Wilderness Boundary to USFS Road 1590 (USFS Road 1590); ~~((then))~~ north on USFS Road 1590 to the Cascade River Road; ~~((then))~~ north on Cascade River Road to the North Cascades National Park Boundary; ~~((then))~~ east on the North Cascades National Park Boundary to the Pacific Crest Trail Boundary; ~~((then))~~ south on the Pacific Crest Trail to Lake Janus and the Rapid River; ~~((then))~~ northwest along the Rapid River to Meadow Creek; ~~((then))~~ north along Meadow Creek to West Cady Creek; ~~((then))~~ northwest along West Cady Creek near Excelsior Mountain and USFS Trail 1054; ~~((then))~~ north on USFS Trail 1054 and the Quartz Creek Trail (USFS 1050) to Curry Gap and USFS Trail 650; ~~((then))~~ east on USFS Trail 650 to June Mountain and the Glacier Peak Wilderness Boundary; ~~((then))~~ north on the Glacier Peak Wilderness Boundary across the Suiattle River to Jordan Lakes on township line between T34 & 35N and the point of beginning.

GMU 454-ISSAQUAH (King and Snohomish counties): Beginning at the mouth of the Snohomish River near Everett; ~~((then))~~ southeast along the Snohomish River to the Snoqualmie River; ~~((then))~~ southeast along the Snoqualmie River to Duvall and State Highway 203; ~~((then))~~ south on State Highway 203 to Fall City; ~~((then))~~ southwest on Preston-Fall City Road to Preston and Interstate Highway 90; ~~((then))~~ east on Interstate Highway 90 to State Highway 18; ~~((then))~~ south on State Highway 18 to the Raging River; ~~((then))~~ southeast along the Raging River to Keriston Road; South on Keriston Road to the City of Seattle Cedar River Watershed; ~~((then))~~ west, south and east on the Cedar River Watershed to the City of Tacoma Green River Watershed; ~~((then))~~ south on the Green River Watershed to USFS Road 7110 near Lynn Lake; ~~((then))~~ southwest on USFS Road 7110 to U.S. Highway 410; ~~((then))~~ west on U.S. Highway 410 to Enumclaw and State Highway 164; ~~((then))~~ west on State Highway 164 to Auburn and State Highway 18; ~~((then))~~ west on State Highway 18 to U.S. Highway 99; ~~((then))~~ north on U.S. Highway 99 to Buenna and Redondo Beach; ~~((then))~~ due west to Puget Sound; ~~((then))~~ west along East Passage and north along Colvos Passage (including Vashon and Maury Islands) to Puget Sound; ~~((then))~~ north to the mouth of the Snohomish River and the point of beginning.

GMU 460-SNOQUALMIE (King and Snohomish counties): Beginning at Monroe on State Highway 203 and U.S. Highway 2; ~~((then))~~ east on U.S. Highway 2 to Stevens Pass and the Pacific Crest Trail; ~~((then))~~ south on the Pacific Crest Trail to the City of Seattle Cedar River Watershed; ~~((then))~~ west on the Cedar River Watershed Boundary to Keriston Road; north on Keriston Road to the Raging River; ~~((then))~~ west and north along the Raging River to State Highway 18; ~~((then))~~ north on State Highway 18 to Interstate Highway 90; ~~((then))~~ west on Interstate Highway 90 to the Preston-Fall City Road; ~~((then))~~ north on the Preston-Fall City Road to State Highway 203; ~~((then))~~ north on State Highway 203 to Monroe and the point of beginning.

GMU 466-STAMPEDE (King County): Beginning on the Pacific Crest Trail (USFS Trail 2000) and the east boundary of the City of Seattle Cedar River Watershed; ~~((then))~~ south on the Pacific Crest Trail past Blowout Mountain to USFS Road 7038 at its closest point to the Pacific Crest Trail near Windy Gap north of Pyramid Peak(♣); ~~((then))~~ northwest on USFS Roads 7038, 7036, 7030, and 7032 to USFS Trail 1172; ~~((then))~~ west on USFS Trail 1172 to about 1/4 mile past Williams Hole to the posted boundary of the City of Tacoma Green River Watershed Boundary; ~~((then))~~ north on the Green River Watershed Boundary to the City of Seattle Cedar River Watershed Boundary and along this boundary to Pacific Crest Trail and the point of beginning.

~~((GMU 472-WHITE RIVER (King and Pierce counties): Beginning at the lookout at Grass Mountain mainline (USFS Road 7110) and the City of Tacoma Green River Watershed Boundary; then east on the Green River Watershed Boundary and USFS Trail 1172 to USFS Road 7032; then east along USFS Road 7032 to USFS Road 7030; then southeast along USFS Road 7030 and USFS Road 7036 and USFS 7038; then~~

onto the Pacific Crest Trail (USFS 2000) at its closest point to Road 7038 near Windy Gap north of Pyramid Peak; then south on the Pacific Crest Trail to the Mount Rainier National Park Boundary at Chinook Pass; then north and west on the park boundary to the Carbon River; then northwest along the Carbon River to Bonneville Power Transmission Line; then northeast along the transmission line to South Prairie Creek; then north along South Prairie Creek to intersection with Champion ownership line (Section 14, T19N, R6E); then east and north along Champion ownership line to the White River (along west line of Section 6, T19N, R7E); then southeast along the White River to the Bonneville Power Line on the north side of the river near Mud Mountain Dam Road; then northeast on the transmission lines to State Highway 410; then east on State Highway 410 to USFS Road 7110; then north on USFS Road 7110 to the City of Tacoma Green River Watershed and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).

GMU 478 MASHEL (Pierce County): Beginning at the Bonneville Power Transmission Line at the Puyallup River bridge on the Orville Road East; then northeast on the Bonneville Power Transmission Line to the Carbon River; then southeast along the Carbon River to the west boundary of Mt. Rainier National Park; then south on the park boundary to the Nisqually River; then west on the Nisqually River to the mouth of the Mashel River; then up the Mashel River to the Highway 161 Bridge (Eatonville-LaGrande Road); then north on Highway 161 through Eatonville to Orville Road East (Kapowsin-Eatonville Road); then north on the Orville Road East to the Puyallup River bridge and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).

GMU 484 PUYALLUP (Pierce and King counties): Beginning at Redondo Junction on the shore of Puget Sound and Redondo Way South; then southeast on Redondo Way South to Pacific Highway South (Old Highway 99); then south on the Pacific Highway South to Auburn and State Highway 18; then east on State Highway 18 to State Highway 164; then southeast on State Highway 164 to Enumelaw and State Highway 410 (Chinook Pass Highway); then east on State Highway 410 to the second set of Bonneville Power Transmission Lines near the Mud Mountain Dam Road; then southwest on the transmission lines to the White River; then northwest along the White River to the Champion ownership line (along west line of Section 6, T19N, R7E); then west and south along the Champion ownership line to South Prairie Creek (Section 14, T19N, R6E); then south along South Prairie Creek to the intersection with the Bonneville Power Line; then southwest on this transmission line to Puyallup River and the Orville Road East; then south on the Orville Road East to State Highway 161; then down the Mashel River to the Nisqually River (Pierce-Thurston County line); then northwest along the Nisqually River to Puget Sound; then north along Nisqually Reach, Drayton Passage, Pitt Passage, including Anderson Island, McNeil Island and Ketron Island to Redondo and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).)

GMU 485-GREEN RIVER (King County): Beginning at the northwest corner of the Green River Watershed; ~~((then))~~ east on the boundary between the Green River Watershed and the Cedar River Watershed to the USFS Road 5060; ~~((then))~~ south on the USFS Road 5060 to the posted boundary of the Green River Watershed; ~~((then))~~ along the southern boundary of the Green River Watershed over Huckleberry Mountain and Grass Mountain and across the Green River to the northwest corner of the Green River Watershed and the point of beginning.

GMU 490-CEDAR RIVER (King County): The area within the posted boundary of the city of Seattle Cedar River Watershed.

AMENDATORY SECTION (Amending Order 99-40, filed 5/5/99, effective 6/5/99)

WAC 232-28-02205 Game management units (GMUs)—Special game areas—Boundary descriptions—Region five.

GMU 501-LINCOLN (Lewis, Thurston, Pacific and Grays Harbor counties): Beginning at the intersection of Interstate 5 and State Highway 6; ~~((then))~~ west on State Highway 6 to the Stevens Road; ~~((then))~~ northwest on Stevens Road to Elk Creek Road (Doty); ~~((then))~~ west on Elk Creek Road to the 7000 Road; ~~((then))~~ west on the 7000 Road to the ~~((7800)) 7400 Road~~; ~~((then))~~ west on the ~~((7800)) 7400 Road to the 7050 Road and the 7800 Road~~; north on the ~~7800 Road to the 7800 F Road~~; east on the ~~7800 F Road~~ to the 720 Road; ~~((then))~~ northeast on the 720 Road to Garrard Creek Road; ~~((then))~~ northeast on the Garrard Creek Road to Oakville and U.S. Highway 12; ~~((then))~~ east on U.S. Highway 12 to Interstate 5; ~~((then))~~ south on Interstate 5 to State Highway 6 and point of beginning.

GMU 504-STELLA (Cowlitz County): Beginning at the mouth of the Cowlitz River at the Columbia River; ~~((then))~~ west down the Columbia to the mouth of Germany Creek; ~~((then))~~ north up Germany Creek to State Highway 4; ~~((then))~~ east on Highway 4 to Germany Creek Road; ~~((then))~~ north on Germany Creek Road to International Paper 1000 Road; ~~((then))~~ north on International Paper 1000 to the International Paper 1050 Road; ~~((then))~~ east on International Paper 1050 Road to the 2200 Road; ~~((then))~~ east and south to the 2000 Road; ~~((then))~~ south on the 2000 Road to the Delameter Road (Woodside Road); ~~((then))~~ east on Delameter Road to State Highway 411; ~~((then))~~ north on Highway 411 to ~~((PH 10 Road (Four Corners))~~; then east to ~~Cowlitz River~~; then ~~Interstate 5~~; south on ~~Interstate 5 to Ostrander Creek~~; west on ~~Ostrander Creek to Cowlitz River~~; south down the Cowlitz River to the Columbia River and point of beginning.

GMU 505-MOSSYROCK (Lewis County): Beginning on Interstate 5 and the Cowlitz River; ~~((then))~~ northeast up the Cowlitz River to Mayfield Lake and the U.S. Highway 12 bridge; ~~((then))~~ east on U.S. Highway 12 to Winston Creek Road; ~~((then))~~ south and east to Longbell Road and Perkins Road; ~~((then))~~ northeast on Perkins Road to ~~((Swofford~~

~~Road; then north on Swofford Road to Ajlune Road; then east on Ajlune Road~~) Green Mountain Road; east on Green Mountain Road to the outlet of Swofford Pond; east along the outlet to Riffe Lake; ((then)) east along the south shore to the Cowlitz River and up the Cowlitz River to the USFS 23 Road (Cispus Road) Bridge; ((then)) south and east to the C Line Road; ((then)) east to the Bennet Road; ((then)) east to U.S. Highway 12; ((then)) west on Highway 12 to State Highway 7 (Morton); ((then)) north on State Highway 7 to State Highway 508; ((then)) west on Highway 508 to Centralia/Alpha Road; ((then)) west and north on Centralia/Alpha Road to Salzer Valley Road; ((then)) west to Summa Street and Kresky Road; ((then)) north on Kresky Road to Tower Street; ((then)) on Tower Street to State Highway 507; ((then)) west on Highway 507 Cherry, Alder and Mellen Streets to Interstate 5; ((then)) south on Interstate 5 to the Cowlitz River and point of beginning.

GMU 506-WILLAPA HILLS (Wahkiakum, Pacific and Lewis counties): Beginning at Pe Ell and the Muller Road; ((then)) south on the Muller Road to the 1000 Road; ((then)) south on the 1000 Road to the 1800 Road; ((then)) south on the 1800 Road to the 500 Road; ((then)) southeast on the 500 Road to State Highway 407 (Elochoman Valley Road); ((then)) south on the Elochoman Valley Road (old SR 407) to the Elochoman River; ((then)) downstream along the Elochoman River to the Foster Road; ((then)) north on Foster Road to Risk Road; ((then)) west and north along Risk Road to SR 4; ((then)) west on SR 4 to Skamokawa Creek; ((then)) downstream along Skamokawa Creek to the confluence with the Columbia River; ((then)) west along Columbia River to the mouth of the Deep River; ((then)) north along the Deep River to State Highway 4; ((then)) northwest on State Highway 4 to the Salmon Creek Road; ((then)) north on the Salmon Creek Road to the Bonneville Powerline Road; ((then)) north on the Bonneville Powerline Road to State Highway 6; ((then)) east on State Highway 6 to the Town of Pe Ell and the point of beginning.

GMU 510-STORMKING (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek Bridge; ((then)) north up Silver Creek to Silverbrook Road; ((then)) east to USFS 47 Road; ((then)) north on USFS 47 Road to USFS 85 Road; ((then)) west on USFS 85 Road to Silver Creek; ((then)) southwest on Silver Creek to Lynx Creek; ((then)) north on Lynx Creek and its northernmost tributary to USFS 85 Road; ((then)) northwest on the USFS 85 Road to Catt Creek; ((then)) north on Catt Creek to the Nisqually River; ((then)) west down the Nisqually River to State Highway 7; ((then)) south on Highway 7 to U.S. Highway 12 (Morton); ((then)) east on U.S. Highway 12 to Silver Creek and point of beginning.

GMU 513-SOUTH RAINIER (Lewis County): Beginning on U.S. Highway 12 at the Silver Creek bridge; ((then)) north up Silver Creek to Silverbrook Road; ((then)) east to USFS 47 Road; ((then)) north on USFS 47 Road to USFS 85 Road; ((then)) west on USFS 85 Road to Silver Creek; ((then)) southwest on Silver Creek to Lynx Creek; ((then)) north on Lynx Creek and its northernmost tributary to USFS 85 Road; ((then)) north on USFS 85 Road to Catt Creek; ((then)) north-

west down Catt Creek to the Nisqually River; ((then)) east up the Nisqually River to the southern boundary of Mt. Rainier National Park; ((then)) east along the south park boundary to the Pacific Crest Trail; ((then)) south along the Pacific Crest Trail to U.S. Highway 12; ((then)) west on U.S. Highway 12 to the Silver Creek bridge and point of beginning.

GMU 516-PACKWOOD (Lewis and Skamania counties): Beginning at the mouth of Cispus River; ((then)) east up the Cispus River to the USFS 56 Road (Midway G.S. Road); ((then)) east on the USFS 56 Road to the USFS 5603 Road; ((then)) east on the USFS 5603 Road to the ~~(Yakima)~~ Yakama Indian Reservation Boundary and the Cascade Crest; ((then)) north along the reservation boundary to Cispus Pass and the Pacific Crest Trail; ((then)) north along the Pacific Crest Trail to the U.S. Highway 12 (White Pass); ((then)) northwest and southwest on U.S. Highway 12 to USFS 1270 Road (Section 31, T14N, R10E); ((then)) north on USFS 1270 Road to the Cowlitz River; ((then)) southwest down the Cowlitz River to the mouth of Smith Creek; ((then)) south up Smith Creek to U.S. Highway 12; ((then)) southwest down U.S. Highway 12 to Bennet Road; ((then)) west on the Bennet Road to the C Line Road; ((then)) west to the USFS 23 Road (Cispus Road); ((then)) west and north to the Cowlitz River; ((then)) west down the Cowlitz River to the mouth of the Cispus River and point of beginning.

GMU 520-WINSTON (Cowlitz, Lewis and Skamania counties): Beginning at the intersection of Interstate 5 and the Cowlitz River; ((then)) south down the Cowlitz River to the Toutle River; ((then)) east up the Toutle River to the North Fork Toutle River; ((then)) up the North Fork Toutle River to the Green River; ((then)) east up the Green River to USFS 2612 Road; ((then)) east on USFS 2612 Road to USFS 26 Road (Ryan Lake Road); ((then)) north on USFS 26 Road to the Cispus River; ((then)) west down the Cispus to the Cowlitz River; ((then)) west down the Cowlitz River to Riffe Lake; ((then)) west along the south shore to ~~(Ajlune Road; then west to Swofford Road; then south on Swofford Road)~~ the Swofford Pond outlet; west along the outlet to Green Mountain Road; west on Green Mountain Road to Perkins Road; ((then)) southwest and northwest on Perkins Road and Longbell Road to Winston Creek Road; ((then)) northwest on Winston Creek Road to U.S. Highway 12; ((then)) west on U.S. Highway 12 to the Mayfield Lake bridge; ((then)) southwest down Mayfield Lake and the Cowlitz River to Interstate 5 and point of beginning.

GMU 522-LOO-WIT (Cowlitz and Skamania counties): Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; ((then)) southeast up the North Fork Toutle River to Deer Creek, up Deer Creek to Deer Creek Springs; up Deer Creek Springs to the Weyerhaeuser 3001 Road; ((then)) southeast along the 3001, 3000, and 3090 Roads to the headwaters of the South Fork Castle Creek; ((then)) due south to the South Fork Toutle River; ((then)) east along South Fork Toutle to its headwaters and Mount St. Helens crater edge; ((then)) east along the crater edge to the headwaters of Ape Canyon; ((then)) down Ape Canyon Creek to the USFS Smith Creek Trail ((then)); north up USFS Smith Creek Trail to USFS 99 Road; ((then)) north along USFS 99

Road to USFS 26 Road; ~~((then))~~ north to Strawberry Lake Creek; ~~((then))~~ west down Strawberry Lake Creek to the Green River; ~~((then))~~ across the Green River to Grizzly Creek; ~~((then))~~ up Grizzly Creek to Grizzly Lake; ~~((then))~~ west up the western inlet to its headwaters; ~~((then))~~ west to the headwaters of Coldwater Creek; ~~((then))~~ west down Coldwater Creek to Coldwater Lake; ~~((then))~~ southwest along the northwest shore to the ~~((old Weyerhaeuser 3500 Road; then west along the 3500, 3530, 3540, 3130, and 3120 Roads to the intersection with))~~ outlet of Coldwater Lake; downstream on the outlet from Coldwater Lake to State Route 504 Bridge at mile post 45; west down State Route 504 to Hoffstadt Creek Bridge; ~~((then))~~ down Hoffstadt Creek to the North Fork Toutle River and point of beginning.

GMU 524-MARGARET (Cowlitz, Skamania and Lewis counties): Beginning on the North Fork Toutle River at the mouth of the Green River; ~~((then))~~ southeast up the North Fork Toutle River to the mouth of Hoffstadt Creek; ~~((then))~~ up Hoffstadt Creek to the ~~((3120 Road; then east along the 3120, 3130, 3540, 3530 and 3500 Roads to Coldwater Lake; then northeast along the northwest shoreline))~~ State Route 504 Bridge over Hoffstadt Creek; east on State Route 504 to mile post 45 (the bridge over the outlet to Coldwater Lake); up the outlet of Coldwater Lake to Coldwater Lake; northeast along the shoreline of Coldwater Lake to Coldwater Creek; ~~((then))~~ up Coldwater Creek to its headwaters and east to the headwaters of Grizzly Lake; ~~((then))~~ east down the west inlet creek to Grizzly Lake; ~~((then))~~ down Grizzly Creek to the Green River and the mouth of Strawberry Lake Creek; ~~((then))~~ up Strawberry Lake Creek to the USFS 26 Road (Ryan Lake Road); ~~((then))~~ north on the USFS 26 Road to the USFS 2612 Road; ~~((then))~~ west on USFS 2612 Road to the Green River; ~~((then))~~ down the Green River to its mouth and point of beginning.

GMU 530-RYDERWOOD (Cowlitz, Lewis and Wahkiakum counties): Beginning south of the Town of Doty on State Highway 6; ~~((then))~~ east on State Highway 6 to Chehalis and Interstate 5; ~~((then))~~ south on Interstate 5 to the Cowlitz River; ~~((then))~~ south along the Cowlitz River to Castle Rock and the PH 10 Road (Four Corners); ~~((then))~~ west on the PH 10 Road to State Highway 411; ~~((then))~~ south on State Highway 411 to Delameter Road (Woodside Drive); ~~((then))~~ southwest on Delameter Road to the 2000 Road; ~~((then))~~ west on the 2000 Road to the 2200 Road; ~~((then))~~ north and west on the 2200 Road to the International Paper 1050 Road; ~~((then))~~ west on the International Paper 1050 Road to the International Paper 1000 Road; ~~((then))~~ south on the International Paper 1000 Road to the Germany Creek Road; ~~((then))~~ south on the Germany Creek Road to State Highway 4; ~~((then))~~ west on State Highway 4 to Germany Creek; ~~((then))~~ south along Germany Creek to its mouth at the Columbia River; ~~((then))~~ west along the Columbia River and the Cathlamet Channel to the Puget Island Bridge on State Highway 409; ~~((then))~~ north on State Highway 409 to State Highway 4; ~~((then))~~ west on State Highway 4 to State Highway 407 (Elochoman Valley Road); ~~((then))~~ northwest on State Highway 407 (Elochoman Valley Road) to the 500 Road; ~~((then))~~ west on the 500 Road to the 1800 Road; ~~((then))~~ north on the 1800

Road to the International Paper 1000 Road; ~~((then))~~ north on the International Paper 1000 Road to the Muller Road; ~~((then))~~ north on Muller Road to Pe Ell and State Highway 6; ~~((then))~~ north on State Highway 6 to south of Doty and the point of beginning.

GMU 550-COWEEMAN (Cowlitz County): Beginning ~~((at the mouth of the))~~ where the Toutle River flows into Cowlitz River; ~~((then north to the Toutle River; then))~~ east along the Toutle River to the South Fork Toutle River; ~~((then))~~ up the South Fork Toutle to the 4950 Road; ~~((then))~~ south and east on the 4950 Road to the 235 Road; ~~((then))~~ south on the 235, 200, 245, 134, 133, 130 and 1680 Roads to the 1600 Road; ~~((then))~~ southeast along the 1600 and 1400 Roads to the Kalama/Coweeman Summit; ~~((then))~~ south along the 1420 Road to the 1426 Road; ~~((then))~~ southwest along the 1426 Road to the 1428 Road; southwest along 1428 Road to 1429 Road; southwest along 1429 Road to 6400 Road; ~~((then))~~ southwest down the 6400 Road to the 6000 Road; ~~((then))~~ east to the 6450 Road; ~~((then))~~ southeast approximately one mile on the 6450 Road to the 6452 Road; ~~((then))~~ southeast on 6452 Road to Dubois Road; ~~((then))~~ to State Highway 503; ~~((then))~~ west on State Highway 503 to Cape Horn Creek; ~~((then))~~ down Cape Horn Creek to Merwin Reservoir and the Lewis River; ~~((then))~~ down the Lewis River to the ~~((Columbia River; then down the Columbia River to the mouth of the Cowlitz River))~~ Natural Gas Pipeline right of way; north up the Natural Gas Pipeline right of way to Ostrander Creek; west down Ostrander Creek to I-5; north on I-5 to the Toutle River and point of beginning.

GMU 554-YALE (Cowlitz County): Beginning on State Highway 503 at its crossing of Cape Horn Creek; ~~((then))~~ east on State Highway 503 to 6690 Road (Rock Creek Road); ~~((then))~~ northeast on the 6690 and 6696 Roads to West Fork Speelyai Creek; ~~((then))~~ down Speelyai Creek to State Highway 503; ~~((then))~~ northeast on State Highway 503 to Dog Creek; ~~((then))~~ down Dog Creek to Yale Reservoir; ~~((then))~~ south and west down Yale Reservoir, Lewis River, and Merwin Reservoir to Cape Horn Creek; ~~((then))~~ up Cape Horn Creek to State Highway 503 and point of beginning.

GMU 556-TOUTLE (Cowlitz County): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Road (Merril Lake Road) intersection; ~~((then))~~ north on USFS 81 Road to Weyerhaeuser 7200 Road; ~~((then))~~ northeast on the 7200 Road to the 7400 Road; ~~((then))~~ northwest on the 7400 Road to the 5500 Road; ~~((then))~~ east and north on the 5500 and 5670 Roads to the South Fork Toutle River; ~~((then))~~ east up the South Fork Toutle River to a point due south of the headwaters of the South Fork Castle Creek (Section 1, T8N, R4E); ~~((then))~~ north along the posted Loo-wit boundary to end of the Weyerhaeuser 3092 Road; ~~((then))~~ west on the 3092 Road to 3090 Road; ~~((then))~~ northwest on the 3090, 3000 and 3001 Roads; west on the 3001 Road to Deer Creek Springs; down Deer Creek Springs to Deer Creek, downstream on Deer Creek to the North Fork Toutle River; ~~((then))~~ down the North Fork Toutle River to the South Fork Toutle River; ~~((then))~~ southeast up the South Fork Toutle River to the 4950 Road; ~~((then))~~ south on the 4950, 235, 200, 245, 243A, 134, 133, 130, and 1680 Roads to the 1600 Road;

~~((then))~~ southeast on the 1600 and 1400 Roads to the Kalama/Coweeman Summit; ~~((then))~~ south on the 1420 Road to the 1426 Road; ~~((then))~~ southwest along the 1426 Road to the 1428 Road; southwest along 1428 Road to 1429 Road to 6400 Road; ~~((then))~~ southwest on the 6400 Road to the 6000 Road; ~~((then))~~ east up the 6000 Road to the 6450 Road; ~~((then))~~ southwest on the 6450 Road approximately one mile to the 6452 Road; ~~((then))~~ southeast on 6452 Road to Dubois Road to State Highway 503; ~~((then))~~ east on State Highway 503 to the 6690 Road (Rock Creek Road); ~~((then))~~ northeast on the 6690 and 6696 Roads to the West Fork Speelyai Creek; ~~((then))~~ down Speelyai Creek to State Highway 503; ~~((then))~~ northeast on State Highway 503 to USFS 81 Road and point of beginning.

GMU 558-MARBLE (Cowlitz and Skamania counties): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Road intersection; ~~((then))~~ north on USFS 81 Road to Weyerhaeuser 7200 Road; ~~((then))~~ northeast on the 7200 Road to the 7400 Road; ~~((then))~~ northwest on the 7400 Road to the 5500 Road; ~~((then))~~ east and north on the 5500 and 5670 Roads to the South Fork Toutle River; ~~((then))~~ east up the South Fork Toutle River to Mount St. Helens crater and along crater to headwaters of Ape Canyon; ~~((then))~~ east down Ape Canyon Creek to USFS Smith Creek Trail ~~((then))~~; north up USFS Smith Creek Trail to USFS 99 Road; ~~((then))~~ northeast on USFS 99 Road to USFS 25 Road; ~~((then))~~ south on USFS 25 Road to the Muddy River; ~~((then))~~ south down the Muddy River to the North Fork Lewis River; ~~((then))~~ west down the North Fork Lewis River, Swift Reservoir to Yale Reservoir and Dog Creek; ~~((then))~~ north up Dog Creek to State Highway 503; ~~((then))~~ southwest to USFS 81 Road and point of beginning.

GMU 560-LEWIS RIVER (Skamania, Klickitat, Yakima and Lewis counties): Beginning at Trout Lake, north to the USFS 80 Road; ~~((then))~~ north to USFS 17 Road (Mt. Adams Recreational Road); ~~((then))~~ northeast to USFS 82 Road; ~~((then))~~ northeast on the USFS 82 Road to the ~~((Yakima))~~ Yakama Indian Reservation Boundary (Section 16, T7N, R11E); ~~((then))~~ north along reservation boundary (Cascade Crest) to USFS 5603 Road; ~~((then))~~ west to the USFS 56 Road; ~~((then))~~ west to the Cispus River; ~~((then))~~ northwest down the Cispus River to the USFS 26 Road (Ryan Lake Road); ~~((then))~~ west and south on the USFS 26 Road to USFS 99 Road; ~~((then))~~ northeast to the USFS 25 Road; ~~((then))~~ south to Muddy River; ~~((then))~~ south down the Muddy River to the North Fork Lewis River; ~~((then))~~ west to the USFS 90 Road bridge (Eagle Cliff); ~~((then))~~ east on USFS 90 Road to USFS 51 Road; ~~((then))~~ southeast to USFS 30 Road; ~~((then))~~ northeast on the USFS 30 Road to USFS 24 Road; ~~((then))~~ southeast to the State Highway 141; ~~((then))~~ northeast on State Highway 141 to Trout Lake and point of beginning.

GMU 564-BATTLE GROUND (Clark and Skamania counties): Beginning ~~((on the Interstate 5 at the Lewis River Bridge and))~~ where Ostrander Creek flows into the Cowlitz River; east up Ostrander Creek approximately 1/2 mile to the Northwest Natural Gas Pipeline right of way; south on the Northwest Natural Gas Pipeline right of way to the Lewis

River; ~~((then))~~ northeast along the Lewis River (Cowlitz-Clark County line) to the Merwin Dam; ~~((then on a southeast line to the transmission line; then south on the transmission line to N.E. Grinnel Road; N.E. Grinnel Road to N.E. Pup Creek Road; N.E. Pup Creek Road to N.E. Cedar Creek Road))~~ east along the south shoreline of Lake Merwin and Lewis River to State Route 503; south and west on State Route 503 to N.E. Amboy Road; ((then south on N.E. 221st Avenue to N.E. Amboy Road; then)) south on N.E. Amboy Road to N.E. Yacolt Road; ~~((then))~~ east on Yacolt Road to Railroad Avenue; southeast to Sunset Falls Road; east to Dole Valley Road; ~~((then))~~ south on the Dole Valley Road to Rock Creek Road; ~~((then))~~ southeast and south on the DNR 1000 Road to DNR 1500 Road; ~~((then))~~ east on DNR 1500 Road to N.E. 412th Avenue; ~~((then))~~ south on N.E. 412th Avenue to Skye Road; ~~((then))~~ east and south on the Skye Road to Washougal River Road; ~~((then))~~ south on Washougal River Road to State Highway 140; ~~((then))~~ southeast on State Highway 140 to Cape Horn Road; ~~((then))~~ south on Cape Horn Road to the Columbia River; ~~((then))~~ west down the Columbia River (including islands in Washington) to the ~~((Lewis))~~ Cowlitz River; ~~((then))~~ north along the ~~((Lewis))~~ Cowlitz River to ((the Interstate 5 Bridge)) Ostrander Creek and the point of beginning.

GMU 568-WASHOUGAL (Clark and Skamania counties): Beginning ~~((at Merwin Dam))~~ on the Lewis River ~~((and Lake Merwin; then northeast along Lake Merwin))~~ at State Route 503; east on Lewis River (Cowlitz-Clark County line) to Canyon Creek; ((then)) southeast along Canyon Creek to N.E. Healy Road; ~~((then))~~ east on N.E. Healy Road to USFS Road 54; ~~((then))~~ east on USFS Road 54 to USFS Road 37; ~~((then))~~ northwest on USFS Road 37 to USFS Road 53; ~~((then))~~ south on USFS Road 53 to USFS Road 4205 (Gumboat Road); ~~((then))~~ south on USFS Road 4205 to USFS Road 42 (Green Fork Road); ~~((then))~~ southwest on USFS Road 42 to USFS Road 41 (Sunset Hemlock Road) at Sunset Falls; ~~((then))~~ east on USFS Road 41 to USFS Road 406 at Lookout Mountain; ~~((then))~~ southeast on USFS Road 406 to the boundary of the Gifford Pinchot National Forest; ~~((then))~~ due east on the National Forest Boundary to Rock Creek; ~~((then))~~ southeast along Rock Creek to Stevenson and the Columbia River; ~~((then))~~ west down the Columbia River (including the islands in Washington) to the Cape Horn Road; ~~((then))~~ north on the Cape Horn Road to Canyon Creek Road; ~~((then))~~ west on Canyon Creek Road to the Washougal River Road; ~~((then))~~ east on the Washougal River Road to the Skye Road; ~~((then))~~ northwest on the Skye Road to N.E. 412th Avenue; ~~((then))~~ northwest on DNR 1500 Road to DNR 1000 Road; ~~((then))~~ north and west on DNR 1000 Road to Dole Valley Road; ~~((then))~~ north on the Dole Valley Road to Sunset Falls Road; ~~((then))~~ northwest to Railroad Avenue through Yacolt; ~~((then))~~ northwest on N.E. Cedar Creek Road ~~((through Amboy to N.E. Pup Creek Road; Pup Creek Road to N.E. Grinnel Road to the transmission lines; then north on the transmission lines to Merwin Dam on))~~ to State Route 503; northeast along State Route 503 to the Lewis River and the point of beginning.

GMU 572-SIOUXON (Skamania and Clark counties): Beginning at the Yale Dam and Yale Lake; ~~((then))~~ north along Yale Lake (Cowlitz-Clark County line) to the North Fork Lewis River and Lewis River (old river bed); ~~((then))~~ northeast along the Lewis River to the Swift Creek Reservoir; ~~((then))~~ east along the Swift Creek Reservoir to Eagle Cliff Bridge and USFS Road 90; ~~((then))~~ east on USFS Road 90 to USFS Road 51 to USFS Road 30; ~~((then))~~ north on USFS Road 30 to USFS Road 24 (Twin Butte Road); ~~((then))~~ south on USFS Road 24 to USFS Road 60 (Carson Guler Road); ~~((then))~~ southwest on USFS Road 60 to USFS Road 65 (Panther Creek Road); ~~((then))~~ southwest on USFS Road 65 to the Wind River Highway; ~~((then))~~ northwest on the Wind River Highway to Stabler; ~~((then))~~ west on Hemlock Road to USFS Road 41 (Sunset-Hemlock Road); ~~((then))~~ west on the USFS Road 41 to Sunset Falls and USFS Road 42 (Green Fork Road); ~~((then))~~ northeast on USFS Road 42 to USFS Road 4205 (Gumboat Road); ~~((then))~~ north on USFS Road 4205 to USFS Road 53; ~~((then))~~ northwest on USFS Road 53 to USFS Road 54 (N.E. Healy Road); ~~((then))~~ west on USFS Road 54 to Canyon Creek; ~~((then))~~ north along Canyon Creek to the Lewis River; ~~((then))~~ northeast along the Lewis River to the Yale Dam and the point of beginning.

GMU 574-WIND RIVER (Skamania County): Beginning at Little Lookout Mountain on USFS Road 41 (Sunset-Mowich Butte); ~~((then))~~ east on USFS Road 41 to Stabler; ~~((then))~~ east on the Hemlock Road to the Wind River Road; ~~((then))~~ southeast on the Wind River Road to Old State Road; ~~((then))~~ east on Old State Road to USFS Road 65 (Panther Creek Road); ~~((then))~~ north on USFS Road 65 to USFS Road 60; ~~((then))~~ northeast on USFS Road 60 to State Highway 141; continue east on State Highway 141 to USFS Road 86; ~~((then))~~ south on USFS Road 86 to USFS Road 1840; ~~((then))~~ south on USFS Road 1840 to USFS Road 18 (Oklahoma Road); ~~((then))~~ south on USFS Road 18 to Willard and the Little White Salmon River; ~~((then))~~ south on the Little White Salmon River to the Columbia River; ~~((then))~~ west along the Columbia River to the mouth of Rock Creek; ~~((then))~~ northwest along Rock Creek through Stevenson to the south boundary of Gifford Pinchot National Forest; ~~((then))~~ on the south boundary of Gifford Pinchot National Forest due west to USFS Road 4100-406; ~~((then))~~ northwest on USFS Road 4100-406 to USFS Road 41 and the point of beginning.

GMU 578-WEST KLICKITAT (Klickitat, Yakima, and Skamania counties): Beginning on the Columbia River at the mouth of the Little White Salmon River; ~~((then))~~ up the Little White Salmon River to Willard; ~~((then))~~ north on USFS 18 Road (Oklahoma Road) to USFS 1840 Road; ~~((then))~~ north on USFS 1840 Road to USFS Road 86; north on USFS Road 86 to State Highway 141; ~~((then))~~ northeast on State Highway 141 to Trout Lake and Mt. Adams Recreational Area Road; ~~((then))~~ north on Mt. Adams Recreational Area Road to USFS 82 Road; ~~((then))~~ northeast on USFS 82 Road to the Yakama Indian Reservation Boundary (Section 16, T7N, R11E); ~~((then))~~ south along the reservation boundary to King Mountain and the southwest corner of the reservation (Section 27, T7N, R11E); ~~((then))~~ east along res-

ervation boundary (approximately one mile) to the end of King Mountain Road; ~~((then))~~ north along the reservation boundary to Section 2 T7N, R11E; ~~((then))~~ east along the reservation boundary to the northeastern corner of Section 4, T7N, R12E; ~~((then))~~ southeast along the reservation boundary to Summit Creek Boundary Road; ~~((then))~~ south to the Glenwood/Goldendale Road; ~~((then))~~ northwest on the Glenwood/Goldendale Road to the Lakeside Road; ~~((then))~~ south on the Lakeside Road to Fisher Hill Road (P-2000); ~~((then))~~ south on Fisher Hill Road to the Fisher Hill Bridge; ~~((then))~~ south down the Klickitat River to the Columbia River; ~~((then))~~ west down the Columbia River to the mouth of the Little White Salmon River and point of beginning.

GMU 588-GRAYBACK (Klickitat County): Beginning at U.S. Highway 97 bridge across Columbia River (Maryhill); ~~((then))~~ west down the Columbia River to Lyle and the mouth of the Klickitat River; ~~((then))~~ up the Klickitat River to the Fisher Hill Bridge; ~~((then))~~ north along the Fisher Hill Road (P-2000) to the Lakeside Road; ~~((then))~~ north and northwest on the Lakeside Road to Glenwood/Goldendale Road; ~~((then))~~ east and southeast on the Glenwood/Goldendale Road to the Summit Creek Primary Road; ~~((then))~~ northeast to the ~~((Yakima))~~ Yakama Indian Reservation Boundary; ~~((then))~~ east along the southern boundary of the reservation to U.S. Highway 97 (Satus Pass Highway); ~~((then))~~ south on U.S. Highway 97 to Maryhill and point of beginning.

AMENDATORY SECTION (Amending Order 98-69, filed 4/22/98, effective 5/23/98)

WAC 232-28-02206 Game management units (GMUs)—Special game areas—Boundary descriptions—Region six.

GMU 601-HOKO (Clallam County): Beginning on the Makah Indian Reservation Boundary and the Strait of Juan de Fuca; ~~((then))~~ southeast along the shore of the Strait of Juan de Fuca to the mouth of the Hoko River; ~~((then))~~ south along the Hoko River to State Highway 112; ~~((then))~~ southeast on State Highway 112 to the Hoko-Ozette Road; ~~((then))~~ southwest on the Hoko-Ozette Road to the Olympic National Park Boundary near Ozette; ~~((then))~~ north on the Olympic National Park Boundary to the Makah Indian Reservation Boundary; ~~((then))~~ east and north on the Makah Indian Reservation Boundary to the Strait of Juan de Fuca and the point of beginning.

GMU 602-DICKEY (Clallam County): Beginning at the mouth of the Hoko River and the Strait of Juan de Fuca; ~~((then))~~ southeast along the shore of the Strait of Juan de Fuca to the mouth of the Clallam River; ~~((then))~~ south along the Clallam River to State Highway 112; ~~((then))~~ south on State Highway 112 to the Burnt Mountain Road; ~~((then))~~ south on the Burnt Mountain Road to Sappho and U.S. Highway 101; ~~((then))~~ southwest on U.S. Highway 101 to the LaPush Road; ~~((then))~~ southwest on the LaPush Road to the Olympic National Park Boundary; ~~((then))~~ north on the Olympic National Park Boundary to the Hoko-Ozette Road; ~~((then))~~ northeast on the Hoko-Ozette Road ~~((to the Strait of~~

Juan de Fuca)) to State Highway 112; northwest on State Highway 112 to the Hoko River and the point of beginning.

GMU 603-PYSHT (Clallam County): Beginning at the mouth of the Clallam River and the Strait of Juan de Fuca; ((then)) east along the shore of the Strait of Juan de Fuca to the mouth of the Elwha River; ((then)) south along the Elwha River to the Olympic National Park Boundary; ((then)) west on the Olympic National Park Boundary to one mile west of Lake Crescent; ((then)) south on the Olympic National Park Boundary to U.S. Highway 101; ((then)) west on U.S. Highway 101 to the Burnt Mountain Road; ((then)) north on the Burnt Mountain Road to State Highway 112; ((then)) north on State Highway 112 to the Clallam River; ((then)) north along the Clallam River to its mouth and the point of beginning, EXCEPT that part of the lower Elwha Indian Reservation within this boundary and EXCEPT Private Lands Wildlife Management Area 600, Merrill and Ring.

GMU 607-SOL DUC (Clallam County): Beginning at Sappho and U.S. Highway 101; ((then)) east on U.S. Highway 101 to the Olympic National Park Boundary; ((then)) south and west on the Olympic National Park Boundary to the Bogachiel River; ((then)) west along the Bogachiel River to U.S. Highway 101; ((then)) north on U.S. Highway 101 through Forks to Sappho and the point of beginning.

GMU 612-GOODMAN (Jefferson and Clallam counties): Beginning two miles east of LaPush on the Olympic National Park Boundary and the LaPush Road; ((then)) northeast on the LaPush Road to U.S. Highway 101 at Forks; ((then)) south on U.S. Highway 101 across the Hoh River and west to Olympic National Park Boundary; ((then)) north on the Olympic National Park Boundary to the LaPush Road and the point of beginning.

GMU 615-CLEARWATER (Jefferson County): Beginning on U.S. Highway 101 and the Bogachiel River; ((then)) east along the Bogachiel River to the Olympic National Park Boundary; ((then)) southeast and west on the Olympic National Park Boundary to the Quinault Indian Reservation Boundary; ((then)) west on the Quinault Indian Reservation Boundary to the Olympic National Park Boundary; ((then)) north along the Olympic National Park Boundary to U.S. Highway 101; ((then)) east, north, and west on U.S. Highway 101 to the Bogachiel River and the point of beginning.

GMU 618-MATHENY (Jefferson and Grays Harbor counties): Beginning at the boundary junction of Olympic National Park and the Quinault Indian Reservation near the Queets River Road; ((then)) north, east, south, and west along the Olympic National Park Boundary to the Park and Reservation boundary junction just west of Lake Quinault; ((then)) northwest along the Quinault Indian Reservation boundary to its junction with the boundary of Olympic National Park near the Queets River Road, and the point of beginning.

GMU 621-OLYMPIC (Jefferson, Clallam and Mason counties): Beginning at the Olympic National Park Boundary and the Elwha River; ((then)) north along the Elwha River to U.S. Highway 101; ((then)) east on U.S. Highway 101 through Port Angeles, and Sequim to Quilcene and the

Chimacum Center Road; ((then)) north on the Chimacum Center Road to the East Quilcene Road; ((then)) east on the East Quilcene Road to Quilcene Bay; ((then)) south along the shore of Quilcene Bay to Dabob Bay; ((then)) south along the shore of Dabob Bay to Hood Canal; ((then)) southwest along the shore of Hood Canal to U.S. Highway 101 at Hoodspout; ((then)) west across U.S. Highway 101 to the Lake Cushman Road; ((then)) northwest on the Power Dam Road; ((then)) west on Power Dam Road to Upper Cushman Dam and the shore of Lake Cushman; ((then)) northwest on the west shore of Lake Cushman to the North Fork Skokomish River; ((then)) north along the North Fork Skokomish River to the Olympic National Park Boundary; ((then)) north and west on the Olympic National Park Boundary to the Elwha River and the point of beginning.

GMU 624-COYLE (Clallam and Jefferson counties): Beginning at the mouth of the Elwha River and the Strait of Juan de Fuca; ((then)) east along the shore including islands and spits to Admiralty Inlet and Puget Sound; ((then)) south along the shore of Admiralty Inlet and Puget Sound to Hood Canal; (including Marrowstone Island and Indian Island) ((then)) southwest along the shore of Hood Canal to Dabob Bay; ((then)) north along the shore of Dabob Bay and Quilcene Bay to East Quilcene Road; ((then)) west on the East Quilcene Road to the Chimacum Center Road; ((then)) south on the Chimacum Center Road to U.S. Highway 101; ((then)) north and west on U.S. Highway 101 through Sequim and Port Angeles to the Elwha River; ((then)) north along the Elwha River to its mouth and the Strait of Juan de Fuca and the point of beginning.

GMU 627-KITSAP (Kitsap, Mason, and Pierce counties): Beginning at the Hood Canal Bridge; ((then)) north along the shore of Hood Canal to Admiralty Inlet, and Puget Sound; ((then)) south along the shore of Puget Sound, including Bainbridge Island, Blake Island, through Clovis Passage to The Narrows; ((then)) south along the shore of Carr Inlet; including Fox Island; through Pitt Passage and Drayton Passage to Nisqually Reach (Pierce-Thurston County line); ((then)) northwest along the Nisqually Reach and the Pierce County line to North Bay; ((then)) along the east shore of North Bay to the town of Allyn and State Highway 3; ((then)) north on State Highway 3 to Belfair; ((then)) north on the Old Belfair Highway to the Bear Creek-Dewatto Road; ((then)) west on the Bear Creek-Dewatto Road to the Dewatto Road West; ((then)) north along the Dewatto Road to its intersection with the Albert Pfundt Road; ((then)) north on the Albert Pfundt Road to the easternmost point of Anderson Cove; ((then)) north from Anderson Cove along the east shore of Hood Canal to the Hood Canal Bridge and the point of beginning.

GMU 633-MASON (Mason and Kitsap counties): Beginning at the easternmost point of Anderson Cove and south on the Albert Pfundt Road to the West Dewatto Road; ((then)) south on the West Dewatto Road to the Bear Creek-Dewatto Road; ((then)) east along the Bear Creek-Dewatto Road to the Old Belfair Highway; ((then)) south on the Old Belfair Highway to Belfair; ((then)) south on State Highway 3 to Allyn and North Bay; ((then)) south along the west shore of

North Bay including Reach and Stretch Islands, to Case Inlet (includes Hartstene Island) and the Mason-Pierce-Thurston County line intersection; ((then)) west through Dana Passage to Squaxin Passage; ((then)) northwest through Squaxin Passage including Hope and Squaxin Islands following the Mason County line; ((then)) southwest through Totten Inlet to Oyster Bay and U.S. Highway 101; ((then)) north on U.S. Highway 101 to Hoodport; ((then)) east across Hood Canal to Cougar Spit; ((then)) north along the east shore of Hood Canal to the point of beginning.

GMU 636-SKOKOMISH (Grays Harbor and Mason counties): Beginning on the Olympic Park Boundary and the North Fork Skokomish River; ((then)) south along the North Fork Skokomish River to Lake Cushman; ((then)) southeast along the west shore of Lake Cushman to Cushman Upper Dam and the Power Dam Road; ((then)) east on the Power Dam Road to Lake Cushman Road; ((then)) southeast on Lake Cushman Road to U.S. Highway 101 at Hoodport; ((then)) south on U.S. Highway 101 to Shelton and the Shelton-Matlock Road (County Road 9010); ((then)) west on to the Shelton-Matlock Road to Matlock and the Deckerville Road; ((then)) west on the Deckerville Road to the Middle Satsop Road; ((then)) west and south on the Middle Satsop Road to the Kelly Road; ((then)) north on the Kelly Road to USFS Road 2153 (old 600 line); ((then)) west on USFS ((Road)) Road 2153 to Wynoochee Road (USFS 22 Road); ((then)) northwest on USFS 22 Road to USFS Road 2294 near Big Creek; ((then)) northwest on USFS Road 2294 to junction with USFS Road 2281; ((then)) west on USFS Road 2281 to the watershed divide between the Humptulips River Watershed and the Wynoochee River Watershed; ((then)) north on the hydrologic boundary between the Humptulips and Wynoochee River drainages to Olympic National Park Boundary to the point of beginning.

GMU 638-QUINALT RIDGE (Grays Harbor and Jefferson counties): Beginning on the Olympic National Park Boundary at the northwest corner of Lake Quinalt; ((then)) northeast on the Olympic National Park Boundary along the Quinalt River; ((then)) south and northeast on the Olympic National Park Boundary to the hydrologic boundary between the Wynoochee and Humptulips Watershed drainages; ((then)) south along the watershed divide between the Humptulips River Watershed and the Wynoochee River Watershed to its intersection with USFS Road 2281; ((then)) east along USFS Road 2281 to USFS Road 2294; ((then)) southeast on USFS Road 2294 to USFS 22 Road (Donkey Creek Road); ((then)) west on the Donkey Creek Road to U.S. Highway 101; ((then)) north on U.S. Highway 101 to the Quinalt Indian Reservation Boundary; ((then)) northeast on the reservation boundary to Lake Quinalt; ((then)) northeast along the south shore of Lake Quinalt to the Olympic National Park Boundary and the point of beginning.

GMU 642-COPALIS (Grays Harbor County): Beginning at the Quinalt Indian Reservation and U.S. Highway 101; ((then)) south on U.S. Highway 101 to the Hoquiam River; ((then)) south along the Hoquiam River to the City of Hoquiam and Grays Harbor; ((then)) west along the north

shore of Grays Harbor to the Pacific Ocean; ((then)) north along the shore of the Pacific Ocean to the Quinalt Indian Reservation Boundary; ((then)) east and northeast along the Quinalt Indian Reservation to U.S. Highway 101 and the point of beginning.

GMU 648-WYNOOCHEE (Grays Harbor County): Beginning at the junction of U.S. Highway 101 and the Donkey Creek Road; ((then)) northeast along the Donkey Creek Road (USFS Road 22) to its junction with the Donkey Creek-Gridale Road; continuing east on this road (USFS Road 22) to Camp Gridale (south of Wynoochee Lake); ((then)) south along the Gridale-Montesano Road (USFS Road 22) to USFS Road 2153 (old 600 line); ((then)) east on USFS 2153 to Kelly Road; ((then)) south on Kelly Road to Middle Satsop Road; ((then)) south on Middle Satsop Road to Cougar Smith Road; ((then)) west on Cougar Smith Road to the West Fork of the Satsop River; ((then)) south down the West Fork and the main stream of the Satsop River to U.S. Highway 12; ((then)) west along U.S. Highway 12 to its junction with U.S. Highway 101 in Aberdeen; ((then)) west and north along U.S. Highway 101 to its junction with the Donkey Creek Road (USFS Road 22) and the point of beginning.

GMU 651-SATSOP (Grays Harbor, Mason and Thurston counties): Beginning at the U.S. Highway 12 bridge on the Satsop River; ((then)) upstream on the Satsop River to its junction with the West Fork of the Satsop River; ((then)) up the West Fork of the Satsop River to the Cougar Smith Road; ((then)) east on the Cougar Smith Road to the Middle Satsop Road; ((then)) north and east on the Middle Satsop and Matlock-Deckerville Roads to the Town of Matlock; ((then)) east on the Shelton-Matlock Road (County Road 9010) to its junction with U.S. Highway 101; ((then)) south on U.S. Highway 101 to its junction with State Route 8; ((then)) west on State Route 8 to its junction with U.S. Highway 12; ((then)) west along U.S. Highway 12 to the Satsop River and the point of beginning.

GMU 652-PUYALLUP (Pierce and King counties): Beginning at Redondo Junction on the shore of Puget Sound and Redondo Way South; southeast on Redondo Way South to Pacific Highway South (Old Highway 99); south on Pacific Highway South to Auburn and State Highway 18; east on State Highway 18 to State Highway 164; southeast on State Highway 164 to Enumclaw and State Highway 410 (Chinook Pass Highway); east on State Highway 410 to the second set of Bonneville Power Transmission Lines near the Mud Mountain Dam Road; southwest on the transmission lines to the White River; northwest along the White River to the Champion ownership line (along west line of Section 6, T19N, R7E); west and south along the Champion ownership line to South Prairie Creek (Section 14, T19N, R6E); south along South Prairie Creek to the intersection with the Bonneville Power Line; southwest on this transmission line to Puyallup River and the Orville Road East; south on the Orville Road East to State Highway 161; down the Mashel River to the Nisqually River (Pierce-Thurston County line); northwest along the Nisqually River to Puget Sound; north along Nisqually Reach, Drayton Passage, Pitt Passage, including Anderson Island, McNeil Island, and Ketrion Island

to Redondo and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).

GMU 653-WHITE RIVER (King and Pierce counties): Beginning at the lookout at Grass Mountain mainline (USFS Road 7110) and the City of Tacoma Green River Watershed Boundary; east on the Green River Watershed Boundary and USFS Trail 1172 to USFS Road 7032; east along USFS Road 7032 to USFS Road 7030; southeast along USFS Road 7030 and USFS Road 7036 and USFS 7038; onto the Pacific Crest Trail (USFS 2000) at its closest point to Road 7038 near Windy Gap north of Pyramid Peak; south on the Pacific Crest Trail to the Mount Rainier National Park Boundary at Chinoook Pass; north and west on the park boundary to the Carbon River; northwest along the Carbon River to Bonneville Power Transmission Line; northeast along the transmission line to South Prairie Creek; north along South Prairie Creek to intersection with Champion ownership line (Section 14, T19N, R6E); east and north along Champion ownership line to the White River (along west line of Section 6, T19N, R7E); southeast along the White River to the Bonneville Power Line on the north side of the river near Mud Mountain Dam Road; northeast on the transmission lines to State Highway 410; east on State Highway 410 to USFS Road 7110; north on USFS Road 7110 to the City of Tacoma Green River Watershed and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).

GMU 654-MASHEL (Pierce County): Beginning at the Bonneville Power Transmission Line at the Puyallup River Bridge on the Orville Road East; northeast on the Bonneville Power Transmission Line to the Carbon River; southeast along the Carbon River to the west boundary of Mt. Rainier National Park; south on the park boundary to the Nisqually River; west on the Nisqually River to the mouth of the Mashel River; up the Mashel River to the Highway 161 Bridge (Eatonville-LaGrande Road); north on Highway 161 through Eatonville to Orville Road East (Kapowsin-Eatonville Road); north on the Orville Road East to the Puyallup River Bridge and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion).

GMU 658-NORTH RIVER (Grays Harbor and Pacific counties): Beginning at the Pacific Ocean and the south shore of Grays Harbor; ~~((then))~~ east along the south shore of Grays Harbor to Aberdeen and the mouth of the Chehalis River including Rennie Island; ~~((then))~~ east along the Chehalis River to the U.S. Highway 101 bridge and U.S. Highway 101; ~~((then))~~ south on U.S. Highway 101 to Raymond and the Willapa River; ~~((then))~~ west along the Willapa River to Willapa Bay; ~~((then))~~ west along Willapa Bay to the Pacific Ocean; ~~((then))~~ north along the Pacific Ocean to the south shore of Grays Harbor and the point of beginning.

GMU 660-MINOT PEAK (Grays Harbor and Pacific counties): Beginning at Aberdeen on U.S. Highway 12; ~~((then))~~ east and south on U.S. Highway 12 to Oakville and the Chehalis Indian Reservation Road; ~~((then))~~ south on the Reservation Road to the South Bank Road; ~~((then))~~ southeast on the South Bank Road to the Garrard Creek Road; ~~((then))~~ southwest on the Garrard Creek Road to the Oakville Brook

Road; ~~((then))~~ west on the Oakville Brook Road to the North River Valley Road; ~~((then))~~ west on the North River Valley Road to the Smith Creek Road; ~~((then))~~ west on the Smith Creek Road to U.S. Highway 101; ~~((then))~~ north on U.S. Highway 101 to Aberdeen and U.S. Highway 12 and the point of beginning.

GMU 663-CAPITOL PEAK (Grays Harbor and Thurston counties): Beginning at Elma on State Highway 8; ~~((then))~~ east on State Highway 8 to U.S. Highway 101; ~~((then))~~ east on U.S. Highway 101 to the Delphi Road S.W.; ~~((then))~~ south on the Delphi Road S.W. to 110th Avenue; ~~((then))~~ east on 110th Avenue to Littlerock Road; ~~((then))~~ south on Littlerock Road to U.S. Highway 12; ~~((then))~~ northwest on U.S. Highway 12 to Elma and State Highway 8 and the point of beginning.

GMU 666-DESCHUTES (Thurston County): Beginning on U.S. Highway 101 at the Mason-Thurston County line near Oyster Bay; ~~((then))~~ following the Thurston County line through Totten Inlet and Puget Sound to the mouth of the Nisqually River; ~~((then))~~ southeast on the Nisqually River to Highway 507; ~~((then))~~ southwest on Highway 507 to Tenino; southwest on Old Highway 99 to Interstate 5; ~~((then))~~ west on Highway 12 to Littlerock Road; ~~((then))~~ north on the Littlerock Road to 110th Avenue; ~~((then))~~ west on 110th Avenue to Delphi Road; ~~((then))~~ north on Delphi Road to U.S. Highway 101; ~~((then))~~ northwest on U.S. Highway 101 to the Mason-Thurston County line at Oyster Bay and the point of beginning.

GMU 667-SKOOKUMCHUCK (Thurston and Lewis counties): Beginning at the Highway 507 Bridge on the Nisqually River; ~~((then))~~ southeast along the Nisqually River to Alder Lake; ~~((then))~~ southeast along the north shore of Alder Lake to Elbe and State Highway 7; ~~((then))~~ south on State Highway 7 to Morton and State Highway 508; ~~((then))~~ west on State Highway 508 to the Centralia-Alpha Road; ~~((then))~~ west and north on the Centralia-Alpha Road to Salzer Valley Road; west on Salzer Valley Road to Summa Street and Kresky Road; north on Kresky Road to Tower Street to State Highway 507; ~~((then))~~ west on State Highway 507, Cherry, Alder and Mellen Streets to Interstate 5; north on I-5 to Old Highway 99 (Pacific Highway Southwest); northeast on Old Highway 99 to Highway 507; northeast on Highway 507; to the Nisqually River Bridge and the point of beginning.

GMU 672-FALL RIVER (Pacific, Lewis and Grays Harbor counties): Beginning at Raymond and U.S. Highway 101; ~~((then))~~ north on U.S. Highway 101 to Smith Creek Road; ~~((then))~~ northeast on the Smith Creek Road to the North River Valley Road; ~~((then))~~ east on the North River Valley Road to the Oakville-Brook Road; ~~((then))~~ east on the Oakville-Brook Road to the Garrard Creek Road; ~~((then))~~ south on the Garrard Creek Road to the 720 Road; ~~((then))~~ southwest on the 720 Road to the 7800 Road; ~~((then))~~ west on the 7800 Road to the 7050 Road and the 7040 Road; east on the 7400 Road to the 7000 Road; ~~((then))~~ south on the 7000 Road to the Elk Creek Road; ~~((then))~~ east on the Elk Creek Road to the Stevens Road (Doty Road); ~~((then))~~ east on the

Stevens Road to State Highway 6; ~~((then))~~ south, west and northwest on State Highway 6 to Raymond, U.S. Highway 101 and the point of beginning.

GMU 673-WILLIAMS CREEK (Pacific County): Beginning at Willapa Bay and the mouth of the Willapa River; ~~((then))~~ southeast along the Willapa River to Raymond and State Highway 6; ~~((then))~~ southeast on State Highway 6 to the Bonneville Powerline Road; ~~((then))~~ southwest and south on the Powerline Road to the Salmon Creek Road; ~~((then))~~ southwest on the Salmon Creek Road to State Highway 4; ~~((then))~~ west on State Highway 4 to U.S. Highway 101 at Johnson's Landing; ~~((then))~~ west on U.S. Highway 101 to the Naselle River Bridge and the Naselle River; ~~((then))~~ west along the Naselle River to Willapa Bay; ~~((then))~~ north along the east shore of Willapa Bay to the mouth of the Willapa River and the point of beginning.

GMU 681-BEAR RIVER (Pacific and Wahkiakum counties): Beginning at Willapa Bay and the mouth of the Naselle River; ~~((then))~~ southeast along the Naselle River to U.S. Highway 101 Bridge; ~~((then))~~ east on U.S. Highway 101 to State Highway 4; ~~((then))~~ southeast on State Highway 4 to Deep River Bridge; ~~((then))~~ south along the Deep River to the Columbia River; ~~((then))~~ west along the shore of the Columbia River to the mouth of the Wallacut River; ~~((then))~~ north along the Wallacut River to U.S. Highway 101; ~~((then))~~ northwest on U.S. Highway 101 to alternative U.S. Highway 101; ~~((then))~~ north and west on alternative U.S. Highway 101 to Bear River; ~~((then))~~ west along Bear River to Willapa Bay; ~~((then))~~ north along the shore of Willapa Bay to the mouth of the Naselle River and the point of beginning.

GMU 684-LONG BEACH (Pacific County): All of the Long Beach Peninsula west of the mouth of Bear River; ~~((then))~~ south along Bear River to U.S. Highway 101; ~~((then))~~ southwest on U.S. Highway 101 to Alternate U.S. Highway 101; ~~((then))~~ south and west on U.S. Highway 101 to the Wallacut River; ~~((then))~~ south along the Wallacut River to the Columbia River.

AMENDATORY SECTION (Amending Order 98-62, filed 4/22/98, effective 5/23/98)

WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk area descriptions.

Elk Area No. 029 Toledo (Lewis and Cowlitz counties): Beginning at the Cowlitz River and State Highway 505 junction; ~~((then))~~ east along State Highway 505 to Eden Road(~~;~~ ~~then))~~; east along Eden Road to the Evans Road; ~~((then))~~ east along the Evans Road to the Weyerhaeuser 1800 Road; ~~((then))~~ south along Weyerhaeuser 1800 Road to the Weyerhaeuser 1900 ~~((Red, then))~~ Road; south along the Weyerhaeuser 1900 Road to the North Fork Toutle River to Alder Creek to the Weyerhaeuser 2400 Road; ~~((then))~~ west along the Weyerhaeuser 2400 Road to the Weyerhaeuser 4400 Road to Johnson Creek and the South Fork Toutle River to State Highway 504; ~~((then))~~ east on Highway 504 to State Highway 505; ~~((then))~~ north along Highway 505 to the Wey-

erhaeuser 1500 Road to Salmon Creek; ~~((then))~~ west along Salmon Creek to the Cowlitz River; ~~((then))~~ north along the Cowlitz River to the junction of State Highway 505 and point of beginning.

Elk Area No. 031 Shushuskin (Kittitas County): Beginning at Umtanum Road and the Yakima River; ~~((then))~~ west along Umtanum Road to Manastash Road; ~~((then))~~ west on Manastash Road to Cove Road; ~~((then))~~ south and west on Cove Road to Hanson Road and Umtanum Creek; ~~((then))~~ east (downstream) along Umtanum Creek to the Yakima River; ~~((then))~~ north (upstream) along the Yakima River to the point of beginning.

Elk Area No. 032 Malaga (Kittitas and Chelan counties): Beginning at the power line on the Columbia River (approximately 3/4 mile downstream from Colockum Creek); ~~((then))~~ west and south along the Powerline Road to the intersection with the North Fork Tarpiscan Creek Road (Section 9, T20N, R21E); ~~((then))~~ north and west along North Fork of Tarpiscan Creek Road to Colockum Pass Road (Section 9, T20N, R21E); ~~((then))~~ south and west on Colockum Pass Road to section line between Sections 8 and 9 as well as Sections 4 and 5 (T20N, R21E) and Sections 32 and 33 (T21N, R21E); to Mose Carr Road; ~~((then))~~ west and north on Mose Carr Road to Jump Off Road; ~~((then))~~ south and west on Jump Off Road to Shaller Road; ~~((then))~~ north and west on Shaller Road to Upper Basin Loop Road; ~~((then))~~ north and west on Upper Basin Loop Road to Wheeler Ridge Road; ~~((then))~~ north on Wheeler Ridge Road to the Basin Loop Road (pavement) in Section 10 (T21N, R20E); ~~((then))~~ north on the Basin Loop Road to Wenatchee Heights Road; ~~((then))~~ west on Wenatchee Heights Road to Squilchuck Road; ~~((then))~~ south on Squilchuck Road to Beehive Road (USFS Road 9712); ~~((then))~~ northwest on Beehive Road to USFS Road 7100 near Beehive Reservoir; ~~((then))~~ north and west on USFS Road 7100 to Peavine Canyon Road (USFS Road 7101); ~~((then))~~ north and east on Peavine Canyon Road to Number Two Canyon Road; ~~((then))~~ north on Number Two Canyon Road to Crawford Street in Wenatchee; ~~((then))~~ east on Crawford Street to the Columbia River; ~~((then))~~ south and east along the Columbia River to the powerline south of Colockum Creek and point of beginning.

Elk Area No. 033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; ~~((then))~~ west on Crawford Street and Number Two Canyon Road to USFS 7101 Road (Peavine Canyon); ~~((then))~~ west on USFS 7101 Road to Mission Creek Road; ~~((then))~~ north on Mission Creek Road to USFS 7104 Road (Sand Creek); ~~((then))~~ west on USFS 7104 Road (Sand Creek) to Camas Creek; ~~((then))~~ west up Camas Creek to where Camas Creek crosses USFS 7200 Road, T22N, R18E, Section 4; ~~((then))~~ north along USFS 7200 Road to U.S. Highway 97; ~~((then))~~ north on U.S. Highway 97 to USFS 7300 Road (Mountain Home Road); ~~((then))~~ north on the USFS 7300 Road to the Wenatchee River at Leavenworth; ~~((then))~~ down the Wenatchee River and Columbia River to the point of beginning.

PERMANENT

Elk Area No. 036 Riverbottom (Kittitas County): Beginning at the junction of Umtanum Road and State Route 821; south on State Route 821 and the Yakima River to Umtanum Creek; west up Umtanum Creek to Umtanum Road; north on Umtanum Road to State Route 821 and the point of beginning.

Elk Area No. 041 Skagit (Skagit County): Begin at the intersection of CP 190 Road and CP 132 Road (Section 28, T36N, R5E); east along the CP 132 Road to the CP 130 Road; east and south along CP 130 Road to CP 110 Road, west, south and east along CP 110 Road to Childs Creek; south down Childs Creek to State Route 20; east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Hwy; west on South Skagit Hwy to State Route 9; north on State Route 9 to State Route 20; east on State Route 20 to Helmick Road; north on Helmick Road to CP 190 Road to CP 132 Road and the point of beginning. (WA Atlas & Gazetteer & Mt. Baker-Snoqualmie National Forest Map)

Elk Area No. 050 Curtis (Lewis County): Beginning at the Boistfort Road, State Highway 6 intersection; west to the Mauerman Road; west and southwest on the Mauerman Road to the Pe Ell/McDonald Road; south and east on the Pe Ell/McDonald Road to the Lost Valley Road; south and southeast on the Lost Valley Road to the Boistfort Road; east and north along the Boistfort Road to State Highway 6 and point of beginning.

Elk Area No. 052 Mossyrock (Lewis County): Beginning at the intersection of Winston Creek Road and State Highway 12; east on State Highway 12 to the Cowlitz River; east on the Cowlitz River to Riffe Lake; southeast along the south shore of Riffe Lake to Swofford Pond outlet creek; south on Swofford Pond outlet creek to Green Mountain Road; west on Green Mountain Road to Perkins Road; west on Perkins Road to Longbell Road; south on Longbell Road to Winston Creek Road; north on Winston Creek Road to State Highway 12 and the point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 053 Randle (Lewis County): Beginning at the town of Randle and the intersection of U.S. Highway 12 and State Route 131 (Forest Service 23 and 25 Roads); south on State Route 131 to Forest Service 25 Road; south on Forest Service 25 Road to the Cispus River; west along the Cispus River to the Champion 300 line bridge; south and west on the Champion 300 line to the Champion Haul Road; north along the Champion Haul Road to Kosmos Road; north on Kosmos Road to U.S. Highway 12; east on U.S. Highway 12 to Randle and point of beginning. (All lands owned and managed by the Cowlitz Wildlife Area are excluded from this Elk Area.)

Elk Area No. 054 Boistfort (Lewis County): Beginning at the Town of Vader; west along State Highway 506 to the Wildwood Road; north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); northwest along the

500, 540, and 560 lines to the Weyerhaeuser 813 line; northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); west along the Pe Ell/McDonald Road to the Lost Valley Road; northeast along the Lost Valley Road to the Boistfort Road; north along the Boistfort Road to the King Road; east along the King Road to the town of Winlock and State Highway 603; south along Highway 505 to the Winlock/Vader Road; south along said road to the Town of Vader and the point of beginning.

Elk Area No. 055 East Valley (Wahkiakum County): Within one mile on either side of the line beginning at Wilson Creek Park on East Valley Road; west on East Valley Road to the junction with Middle Valley Road (4.5 miles); north along Middle Valley Road to the junction of Oat Field Road (2.5 miles).

Elk Area No. 057 Carlton (Lewis County): That part of 513 (South Rainier) lying east of Highway 123 and north of Highway 12.

Elk Area No. 058 West Goat Rocks (Lewis County): Goat Rocks Wilderness west of the Pacific Crest Trail.

Elk Area No. 059 Mt. Adams Wilderness (Skamania and Yakima counties): The Mt. Adams Wilderness.

Elk Area No. 062 South Bank (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; southeast on the South Bank Road to Delezene Road; south on the Delezene Road to a point one mile from the South Bank Road; southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; east on the Oakville-Brooklyn Road to Oakville and Highway 12; northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.

Elk Area No. 064 Quinault Valley (Grays Harbor and Jefferson counties): That portion of GMU 638 (Quinault) beginning at the junction of Wright Canyon Road and South Shore Road; north to the shoreline of Lake Quinault; north along Lake Quinault to the Olympic National Park (ONP) boundary; east along ONP boundary to its intersection with the South Shore Road and U.S. Forest Service boundary; west along the U.S. Forest Service boundary to the Wright Canyon Road Junction with the South Shore Road and point of beginning.

AMENDATORY SECTION (Amending Order 99-40, filed 5/5/99, effective 6/5/99)

WAC 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—Muzzleloader area descriptions.

Muzzleloader Area No. 911 Fairview (Kittitas County): Begin at U.S. Highway 97 and First Creek Road; east on First

Creek Road to Upper Green Canyon Road and Reecer Creek; north on Reecer Creek (USFS 35 Road) to USFS 3517 Road; east on USFS 3517 Road to Lillard Hill Road and Wilson Creek Road; south on Wilson Creek Road to the BPA Powerlines (T19N; R19E; Section 19); east along the BPA Powerlines to the Colockum Pass Road (T19N; R20E; Section 16); south on Colockum Pass Road to the BPA Powerlines (T18N; R20E; Section 6); east along the BPA Powerlines to the Parke Creek Road; south on Parke Creek Road to Christiansen Road; west on Christiansen Road to Fox Road; north on Fox Road to Lyons Road; west on Lyons Road to Venture Road; north on Venture Road to Brick Mill Road; west on Brick Mill Road to Look Road; north on Look Road to Hungry Junction Road; west on Hungry Junction Road to U.S. Highway 97; north on U.S. Highway 97 to First Creek Road and point of beginning.

Muzzleloader Area No. 925 Ritzville (Adams County): Beginning at the junction of Interstate 90 and S.R. 261 near the Town of Ritzville; (~~then~~) south along S.R. 261 to S.R. 26; (~~then~~) east on S.R. 26 to the Whitman County line; (~~then~~) north along the Adams, Whitman County line to where it intersects the Lincoln, Adams County line; (~~then~~) north along the Adams, Lincoln County line to Interstate 90; (~~then~~) west along Interstate 90 to point of beginning.

Muzzleloader Area No. 926 Guemes (Skagit County): That part of GMU 407 (North Sound) on Guemes Island.

Muzzleloader Area No. 941 Skagit River (Skagit County): Beginning at the intersection of State Route 9 and State Route 20; (~~then~~) east on State Route 20 to Grandy Creek; south down Grandy Creek to the Skagit River; south on a line to South Skagit Highway; west on South Skagit Highway to State Route 9; north on State Route 9 to point of beginning.

Muzzleloader Area No. 944 Clemen (Yakima County): That portion of GMU 342 beginning at the junction of Highway 410 and USFS Road 1701 (Big Bald Mountain Road); (~~then~~) north to USFS Road 1712; (~~then~~) east on USFS Road 1712 (Clemen Ridge Road) to the east edge of Meyster Canyon; (~~then~~) along the east side of Meyster Canyon to the elk fence; (~~then~~) west along the elk fence to Waterworks Canyon and Highway 410 and to point of beginning.

AMENDATORY SECTION (Amending Order 98-232, filed 11/6/98, effective 12/7/98)

WAC 232-12-011 Wildlife classified as protected shall not be hunted or fished. Protected wildlife are designated into three subcategories: Threatened, sensitive, and other.

(1) Threatened species are any wildlife species native to the state of Washington that are likely to become endangered within the foreseeable future throughout a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as threatened include:

Common Name	Scientific Name
Steller (northern) sea lion	<i>Eumetopias jubatus</i>
North American lynx	<i>Lynx canadensis</i>
Aleutian Canada goose	<i>Branta Canadensis leucopareia</i>
bald eagle	<i>Haliaeetus leucocephalus</i>
ferruginous hawk	<i>Buteo regalis</i>
marbled murrelet	<i>Brachyramphus marmoratus</i>
green sea turtle	<i>Chelonia mydas</i>
loggerhead sea turtle	<i>Caretta caretta</i>
sage grouse	<i>Centrocercus urophasianus</i>
sharp-tailed grouse	<i>Phasianus columbianus</i>

(2) Sensitive species are any wildlife species native to the state of Washington that are vulnerable or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats. Protected wildlife designated as sensitive include:

Common Name	Scientific Name
Gray whale	<i>Eschrichtius gibbosus</i>
Larch Mountain salamander	<i>Plethodon larselli</i>
Pygmy whitefish	<i>Prosopium coulteri</i>
Margined sculpin	<i>Cottus marginatus</i>
<u>Olympic mudminnow</u>	<u><i>Novumbra hubbsi</i></u>

(3) Other protected wildlife include:

Common Name	Scientific Name
cony or pika	<i>Ochotona princeps</i>
least chipmunk	<i>Tamias minimus</i>
yellow-pine chipmunk	<i>Tamias amoenus</i>
Townsend's chipmunk	<i>Tamias townsendii</i>
red-tailed chipmunk	<i>Tamias ruficaudus</i>
hoary marmot	<i>Marmota caligata</i>
Olympic marmot	<i>Marmota olympus</i>
Cascade golden-mantled ground squirrel	<i>Spermophilus saturatus</i>
golden-mantled ground squirrel	<i>Spermophilus lateralis</i>
Washington ground squirrel	<i>Spermophilus washingtoni</i>
red squirrel	<i>Tamiasciurus hudsonicus</i>
Douglas squirrel	<i>Tamiasciurus douglasii</i>
northern flying squirrel	<i>Glaucomys sabrinus</i>
wolverine	<i>Gulo gulo</i>
painted turtle	<i>Chrysemys picta</i>

Common Name	Scientific Name
western gray squirrel	<i>Sciurus griseus</i>

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Common Name	Scientific Name
California mountain kingsnake	<i>Lampropeltis zonata</i> ;

All birds not classified as game birds, predatory birds or endangered species, or designated as threatened species or sensitive species; all bats, except when found in or immediately adjacent to a dwelling or other occupied building; all wildlife within Titlow Beach Marine Preserve Area and the conservation areas defined in chapter 220-16 WAC; mammals of the order *Cetacea*, including whales, porpoises, and mammals of the order *Pinnipedia* not otherwise classified as endangered species, or designated as threatened species or sensitive species. This section shall not apply to hair seals and sea lions which are threatening to damage or are damaging commercial fishing gear being utilized in a lawful manner or when said mammals are damaging or threatening to damage commercial fish being lawfully taken with commercial gear.

AMENDATORY SECTION (Amending Order 98-232, filed 11/6/98, effective 12/7/98)

WAC 232-12-014 Wildlife classified as endangered species. Endangered species include:

Common Name	Scientific Name
pygmy rabbit	<i>Brachylagus idahoensis</i>
fisher	<i>Martes pennanti</i>
gray wolf	<i>Canis lupus</i>
grizzly bear	<i>Ursus arctos</i>
sea otter	<i>Enhydra lutris</i>
sei whale	<i>Balaenoptera borealis</i>
fin whale	<i>Balaenoptera physalus</i>
blue whale	<i>Balaenoptera musculus</i>
humpback whale	<i>Megaptera novaeangliae</i>
black right whale	<i>Balaena glacialis</i>
sperm whale	<i>Physeter macrocephalus</i>
Columbian white-tailed deer	<i>Odocoileus virginianus leucurus</i>
woodland caribou	<i>Rangifer tarandus caribou</i>
American white pelican	<i>Pelecanus erythrorhynchos</i>
brown pelican	<i>Pelecanus occidentalis</i>
peregrine falcon	<i>Falco peregrinus</i>
sandhill crane	<i>Grus canadensis</i>
snowy plover	<i>charadrius alexandrinus</i>
upland sandpiper	<i>Bartramia longicauda</i>
spotted owl	<i>Strix occidentalis</i>
western pond turtle	<i>Clemmys marmorata</i>
leatherback sea turtle	<i>Dermochelys coriacea</i>
<u>mardon skipper</u>	<u><i>Polites mardon</i></u>

Common Name	Scientific Name
Oregon silverspot butterfly	<i>Speyeria zerene hippolyta</i>
Oregon spotted frog	<i>Rana pretiosa</i>
<u>northern leopard frog</u>	<u><i>Rana pipiens</i></u>

NEW SECTION

WAC 232-28-277 2001 Big game and wild turkey auction permits and raffles.

BIG GAME AUCTION PERMITS

The director will select a conservation organization(s) to conduct the 2001 auction(s). Selection of the conservation organizations will be based on criteria adopted by the Washington department of fish and wildlife. The organization shall notify the department of the name and address of the successful bidder within ten days of the auction.

AUCTION PERMIT HUNT(S)

SPECIES - ONE ELK PERMIT

Hunting Season Dates: September 15-30, 2001

Hunt Area: State-wide in any area open to general or permit season muzzleloader, archery, or modern firearm elk hunting during the 2001 season EXCEPT all Private Lands Wildlife Management Areas and GMUs 157 and 485 are closed.

Bag Limit: One bull elk

ELK AUCTION HUNT PERMITTEE RULES

(1) Permittee shall contact the appropriate regional office of the department of fish and wildlife when entering the designated hunt area.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a legal weapon or harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the department, the permittee is required to direct department officials to the site of the kill.

SPECIES - ONE BIGHORN SHEEP PERMIT

Hunting Season Dates: September 1 - October 31, 2001

Hunt Area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), or Sheep Unit 13 (Quilomene).

Bag Limit: One bighorn ram

BIGHORN SHEEP AUCTION HUNT PERMITTEE RULES

(1) Permittee shall contact the appropriate regional office of the department of fish and wildlife when entering the designated hunt area.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a firearm and harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the department, the permittee is required to direct department officials to the site of the kill.

(5) The permittee will present the head and carcass of the bighorn sheep killed to any department office within 72 hours of date of kill.

SPECIES - ONE MOOSE PERMIT

Hunting Season Dates: October 1 - November 30, 2001

PERMANENT

Hunt Area: Any moose unit open during the 2001 season.

Bag Limit: One moose of either sex

MOOSE AUCTION HUNT PERMITTEE RULES

(1) The permittee may be accompanied by others; however, only the permittee is allowed to carry a legal weapon or harvest an animal.

(2) If requested by the department, the permittee is required to direct department officials to the site of the kill.

RAFFLE PERMITS

The following raffle permits will be issued to individuals selected through a drawing:

DEER RAFFLE PERMIT HUNT

Bag limit: One additional any buck deer

Open area: State-wide in any area open to general or permit season muzzleloader, archery, or modern firearm deer hunting during the 2001 season, except all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157 and 485 are closed.

Open season: The deer raffle permit holder may hunt in any 2001 general or permit archery, muzzleloader, or modern firearm season.

Weapon: The raffle hunter may use only archery equipment during archery seasons, muzzleloader equipment during muzzleloader seasons and any legal weapon during modern firearm seasons.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

ELK RAFFLE PERMIT HUNT

Bag limit: One additional any bull elk

Open area: State-wide in any area open to general or permit season muzzleloader, archery, or modern firearm elk hunting during the 2001 season, except all Private Lands Wildlife Management Areas (PLWMAs) and GMUs 157 and 485 are closed.

Open season: The elk raffle permit holder may hunt in any 2001 general or permit archery, muzzleloader, or modern firearm season.

Weapon: The raffle permit hunter may use only archery equipment during archery seasons, muzzleloader equipment during muzzleloader seasons and any legal weapon during modern firearm seasons.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

BIGHORN SHEEP RAFFLE PERMIT HUNT

Bag limit: One bighorn ram

Open area: Sheep Unit 4 (Selah Butte), Sheep Unit 5 (Umtanum), Sheep Unit 7 (Cleman Mountain), or Sheep Unit 13 (Quilomene).

Open season: September 1 - October 31, 2001.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$10.00 including a 50-cent vendor fee.

(1) Permittee shall contact the appropriate regional office of the department when entering the designated hunt area.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a firearm and harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the department, the permittee is required to accompany department officials to the site of the kill.

(5) The permittee will present the head and carcass of the bighorn sheep killed to any department office within 72 hours of date of kill.

MOOSE RAFFLE PERMIT HUNT

Bag limit: One moose of either sex

Open area: Hunter may hunt in any moose unit open during the 2001 season.

Open season: October 1 - November 30, 2001.

Weapon: Hunter may use any legal weapon.

Number of permits: 1

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

(1) Permittee shall contact the appropriate regional office of the department when entering the designated hunt area.

(2) If requested by the department, the permittee is required to accompany department officials to the site of the kill.

TURKEY RAFFLE PERMIT HUNT

Bag limit: Three (3) additional wild turkeys, but not to exceed more than one of each subspecies: Eastern, Rio Grande, and Merriams.

Open area: State-wide.

Open season: April 1 - May 31, 2001.

Weapon: Archery or shotgun only. Number of permits: 2

Raffle ticket cost: \$5.00 including a 50-cent vendor fee.

(1) Permittee shall contact the appropriate regional office of the department when entering the region to hunt outside the general season for wild turkeys.

(2) The permittee may be accompanied by others. Only the permittee is allowed to carry a weapon and harvest a turkey outside the general season.

AMENDATORY SECTION (Amending Order 98-250, filed 12/22/98, effective 1/1/99)

WAC 232-28-275 ((1999)) 2000 Black bear special permit season and quotas.

BLACK BEAR SPECIAL PERMIT HUNTS

Who May Apply: Any one with a valid ((1999)) 2000 Washington big game license which includes black bear.

Bag Limit: One (1) black bear per black bear special permit season.

Hunt Name	Permit Season	Permit Hunt Boundary	Special Restrictions	((1999)) 2000 Permits
Blue Creek	April 15 - May ((16)) 25	GMU 154	Any Legal Weapon	((10)) 15
Dayton	April 15 - May ((16)) 25	GMU 162	Any Legal Weapon	((10)) 15

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Hunt Name	Permit Season	Permit Hunt Boundary	Special Restrictions	((1999)) 2000 Permits
Tucannon	April 15 - May ((46)) 25	GMU 166	Any Legal Weapon	10
Wenaha	April 15 - May ((46)) 25	GMU 169	Any Legal Weapon	((45)) 25
Mt. View	April 15 - May ((46)) 25	GMU 172	Any Legal Weapon	((40)) 15
Lick Creek	April 15 - May ((46)) 25	GMU 175	Any Legal Weapon	((40)) 15
Grande Ronde	April 15 - May ((46)) 25	GMU 186	Any Legal Weapon	5

WAC 232-28-263 1997 Raffle permits.
 WAC 232-28-269 1998 Elk, bighorn sheep, and other big game auction permits.
 WAC 232-28-270 1998 Raffle permits.

WSR 00-04-019
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed January 24, 2000, 10:35 a.m.]

Date of Adoption: January 24, 2000.

Purpose: The department is establishing new chapter 388-545 WAC to combine all medical therapy rules. Therefore, WAC 388-86-090 Physical therapy and 388-87-090 Payment—Physical therapy and related services, are being repealed and WAC 388-545-0500 Physical therapy, is being established. The new chapter reorganizes rule sections and updates the language to comply with the Governor's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-86-090 and 388-87-090.

Statutory Authority for Adoption: RCW 74.08.090 and 74.09.520.

Adopted under notice filed as WSR 99-20-106 on October 6, 1999.

Changes Other than Editing from Proposed to Adopted Version: (1) WAC 388-545-500 (1)(b): "A physical ~~therapy~~ therapist assistant supervised by a licensed physical therapist; or"

(2) WAC 388-545-500 (1)(c), deleted: "~~A physical therapy aide, in schools, trained and supervised by a licensed physical therapist.~~"

(3) WAC 388-545-500 (3)(f), added (f): "For disabled children, age two and younger, in natural environments including the home and community settings in which children without disabilities participate, to the maximum extent appropriate to the needs of the child."

(4) WAC 388-545-500 (4)(b): "Medically necessary and ~~prescribed~~ ordered by a physician, physicians's assistant (PA), or an advanced registered nurse practitioner (ARNP);"

(5) WAC 388-545-500 (4)(c): "Begun within thirty days of the date ~~prescribed~~ ordered;

(6) WAC 388-545-500 (4)(e), deleted: "Within accepted ~~medical~~ physical therapy standards."

(7) WAC 388-545-500(5), changed wording: "~~Physical therapy for Providers must document in a client's medical file that physical therapy services provided to clients age twenty-one and older when prescribed by a physician, PA, or an ARNP must be medically necessary. Such documentation may include justification that physical therapy services:~~"

(8) WAC 388-545-500 (5)(d): "~~Be a~~ Are part of a treatment program..."

(9) WAC 388-545-500(8): "MAA covers, without requiring prior authorization, the following ~~prescribed~~

License Required: A valid big game hunting license which includes black bear as a species option is required to hunt black bear. One black bear transport tag is included with a big game hunting license that has black bear as a species option. A second black bear transport tag must be purchased to take a second bear.

Hunting Method: Hunters may use any lawful big game modern firearm, archery, or muzzleloader equipment for hunting black bear. The use of hounds and bait to hunt black bear is prohibited state-wide.

Harvest Report Cards: All hunters that purchase a big game hunting license which includes black bear as an option are required to fill out and return their black bear harvest report card(s). Successful hunters must complete the report card(s) and return within 10 days after taking an animal. Unsuccessful hunters are required to complete and return their report card(s) within 10 days after the close of the bear season, except that unsuccessful spring bear hunters may retain their harvest report card for use during the general season.

Submitting Bear Teeth: Successful bear hunters must submit the black bear premolar tooth located behind the canine tooth of the upper jaw.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 232-28-24102 1995-96 and 1996-97 Official hunting hours for migratory game birds and 1995-96 and 1996-97 Official hunting hours for other game species.
- WAC 232-28-255 1996 Auction permits.
- WAC 232-28-261 1997 Elk and other big game auction permits.
- WAC 232-28-262 1997 Bighorn sheep auction permits.

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ordered physical therapy services per client, per diagnosis, per calendar year, for clients..."

(10) WAC 388-545-500(9), reworded: "~~Additional medically necessary physical therapy services, regardless of the diagnosis, require prior authorization~~ For clients age twenty-one years of age and older, MAA covers physical therapy services which exceed the limitations established in subsection (8) of this section if the provider requests prior authorization and MAA approves the request."

(11) WAC 388-545-500(1), deleted: "The following providers are eligible to enroll with the medical assistance administration (MAA) to provide physical therapy services:..."

The changes were made because:

(1) WAC 388-545-500 (1)(b), changed reference to "physical therapy assistant" to "physical therapist assistant" per public request to use same language as cited in RCW.

(2) WAC 388-545-500 (1)(c), per public request, deleted requirement, "in schools," as physical therapist assistants are not limited to the school setting.

(3) WAC 388-545-500 (3)(f), added section (f), per public request, to incorporate language allowing disabled children age two and younger to receive physical therapy in natural environments, per 34 C.F.R. 303.12(b).

(4) WAC 388-545-500 (4)(b), changed "prescribed" to "ordered." Public commented that a physician "refers" a patient to a physical therapist, rather than "prescribing" certain physical therapy treatments. MAA determined that using the term "ordered" to replace "prescribed" is appropriate.

(5) WAC 388-545-500 (4)(c), changed "prescribed" to "ordered." See (4) above.

(6) WAC 388-545-500 (4)(e), deleted "medical" per public request as it is not needed in language.

(7) WAC 388-545-500(5), changed wording, per public request, to eliminate language that required physical therapy services provided to clients age twenty-one and older to meet the specific requirements of (5)(a), (b), (c), or (d). New language states that providers must document in a client's medical file that physical therapy services for client's age twenty-one and older are medically necessary and cites examples of justification that may be included in the documentation.

(8) WAC 388-545-500 (5)(d), changed wording from "Be a part of a treatment program" to "Are part of a treatment program" because the language changes in subsection (5) requires the wording in (5)(d) to refer to "such documentation."

(9) WAC 388-545-500(8), changed "prescribed" to "ordered," for reasons stated in (4) above.

(10) WAC 388-545-500(9), deleted the phrase, "regardless of the diagnosis," per public request, and rewrote to clarify that the provider must request prior authorization for physical therapy services which exceed the limitations established in subsection (8), and MAA must approve the request.

(11) WAC 388-545-500(1), deleted the phrase, "to enroll with the medical assistance administration (MAA)" as the rule already states that "providers are eligible." A provider is already enrolled with MAA so an explanation is not needed here.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, 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 1, Amended 0, Repealed 2.

Effective Date of Rule: Thirty-one days after filing.

January 24, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

NEW SECTION

WAC 388-545-500 Physical therapy. (1) The following providers are eligible to provide physical therapy services:

(a) A licensed physical therapist or psychiatrist; or

(b) A physical therapist assistant supervised by a licensed physical therapist.

(2) Clients in the following MAA programs are eligible to receive physical therapy services described in this chapter:

(a) Categorically needy (CN);

(b) Children's health;

(c) General assistance-unemployable (GA-U) (within Washington state or border areas only);

(d) Alcoholism and drug addiction treatment and support act (ADATSA) (within Washington state or border areas only);

(e) Medically indigent program (MIP) for emergency hospital-based services only; or

(f) Medically needy program (MNP) only when the client is either:

(i) Twenty years of age or younger and referred under the early and periodic screening, diagnosis and treatment program (EPSDT/healthy kids program) as described in WAC 388-86-027; or

(ii) Receiving home health care services as described in chapter 388-551 WAC.

(3) Physical therapy services that MAA eligible clients receive must be provided as part of an outpatient treatment program:

(a) In an office, home, or outpatient hospital setting;

(b) By a home health agency as described in chapter 388-551 WAC;

(c) As part of the acute physical medicine and rehabilitation (acute PM&R) program as described in the acute PM&R subchapter under chapter 388-550 WAC;

(d) By a neurodevelopmental center;

(e) By a school district or educational service district as part of an individual education or individualized family service plan as described in WAC 388-86-022; or

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(f) For disabled children, age two and younger, in natural environments including the home and community settings in which children without disabilities participate, to the maximum extent appropriate to the needs of the child.

(4) MAA pays only for covered physical therapy services listed in this section when they are:

(a) Within the scope of an eligible client's medical care program;

(b) Medically necessary and ordered by a physician, physician's assistant (PA), or an advanced registered nurse practitioner (ARNP);

(c) Begun within thirty days of the date ordered;

(d) For conditions which are the result of injuries and/or medically recognized diseases and defects; and

(e) Within accepted physical therapy standards.

(5) Providers must document in a client's medical file that physical therapy services provided to clients age twenty-one and older are medically necessary. Such documentation may include justification that physical therapy services:

(a) Prevent the need for hospitalization or nursing home care;

(b) Assist a client in becoming employable;

(c) Assist a client who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(d) Are part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(6) MAA determines physical therapy program units as follows:

(a) Each fifteen minutes of timed procedure code equals one unit; and

(b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.

(7) MAA does not limit coverage for physical therapy services listed in subsections (8) through (10) of this section if the client is twenty years of age or younger.

(8) MAA covers, without requiring prior authorization, the following ordered physical therapy services per client, per diagnosis, per calendar year, for clients twenty-one years of age and older:

(a) One physical therapy evaluation. The evaluation is in addition to the forty-eight program units allowed per year;

(b) Forty-eight physical therapy program units;

(c) Ninety-six additional outpatient physical therapy program units when the diagnosis is any of the following:

(i) A medically necessary condition for developmentally delayed clients;

(ii) Surgeries involving extremities, including:

(A) Fractures; or

(B) Open wounds with tendon involvement.

(iii) Intracranial injuries;

(iv) Burns;

(v) Traumatic injuries;

(vi) Meningomyelocele;

(vii) Down's syndrome;

(viii) Cerebral palsy; or

(ix) Symptoms involving nervous and musculoskeletal systems and lack of coordination;

(d) Two durable medical equipment (DME) needs assessments. The assessments are in addition to the forty-eight physical therapy program units allowed per year. Two program units are allowed per DME needs assessment; and

(e) One wheelchair needs assessment in addition to the two durable medical needs assessments. The assessment is in addition to the forty-eight physical therapy program units allowed per year. Four program units are allowed per wheelchair needs assessment.

(f) The following services are allowed, per day, in addition to the forty-eight physical therapy program units allowed per year:

(i) Two program units for orthotics fitting and training of upper and/or lower extremities.

(ii) Two program units for checkout for orthotic/prosthetic use.

(iii) One muscle testing procedure. Muscle testing procedures cannot be billed in combination with each other.

(g) Ninety-six additional physical therapy program units are allowed following a completed and approved inpatient acute PM&R program. In this case, the client no longer needs nursing services but continues to require specialized outpatient physical therapy for any of the following:

(i) Traumatic brain injury (TBI);

(ii) Spinal cord injury (paraplegia and quadriplegia);

(iii) Recent or recurrent stroke;

(iv) Restoration of the levels of functions due to secondary illness or loss from multiple sclerosis (MS);

(v) Amyotrophic lateral sclerosis (ALS);

(vi) Cerebral palsy (CP);

(vii) Extensive severe burns;

(viii) Skin flaps for sacral decubitus for quadriplegics only;

(ix) Bilateral limb loss;

(x) Open wound of lower limb; or

(xi) Acute, infective polyneuritis (Guillain-Barre's syndrome).

(9) For clients age twenty-one and older, MAA covers physical therapy services which exceed the limitations established in subsection (8) of this section if the provider requests prior authorization and MAA approves the request.

(10) MAA will pay for one visit to instruct in the application of transcutaneous neurostimulator (TENS) per client, per lifetime.

(11) Duplicate services for occupational therapy and physical therapy are not allowed for the same client when both providers are performing the same or similar procedure(s).

(12) MAA does not cover physical therapy services that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

(13) MAA does not cover physical therapy services performed by a physical therapist in an outpatient hospital setting when the physical therapist is not employed by the hospital. Reimbursement for services must be billed by the hospital.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-86-090	Physical therapy.
WAC 388-87-090	Payment—Physical therapy and related services.

WSR 00-04-028
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed January 24, 2000, 3:36 p.m.]

Date of Adoption: January 24, 2000.

Purpose: To explain the responsibility of taxpayers to timely pay their tax liabilities, and the acceptable methods of payment. The rule discusses the interest and penalties that are imposed by law when a taxpayer fails to correctly or timely pay a tax liability. It also explains the circumstances under which the law allows the Department of Revenue to waive interest or penalties.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection.

Statutory Authority for Adoption: RCW 82.32.300.

Adopted under notice filed as WSR 99-24-036 on November 23, 1999.

Changes Other than Editing from Proposed to Adopted Version: The titles to chapter 18.27 RCW (should be "Registration of contractors") and chapter 19.28 RCW (should be "Electricians and electrical installations") in subsection (5)(h) were switched to read correctly. Subsection (9)(b)(i)(B) originally stated in part "If a taxpayer has obtained a tax registration endorsement with the department and has engaged in business activities for a period less than twenty-four months, the taxpayer is eligible for the waiver if the taxpayer timely filed and paid any tax returns due for periods prior to the period covered by the return for which the waiver is being requested." The last part of this sentence has been revised to read "the taxpayer is eligible for the waiver if the taxpayer had no delinquent tax returns for periods prior to the period covered by the return for which the waiver is being requested."

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 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

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Russell W. Brubaker

Assistant Director

Legislation and Policy Division

AMENDATORY SECTION (Amending WSR 92-03-025, filed 1/8/92, effective 2/8/92)

WAC 458-20-228 Returns, remittances, penalties, extensions, interest, stay of collection. (1) **Introduction.** ~~(Taxpayers have a responsibility to become informed about applicable tax laws and to correctly and timely report their tax liability. The taxes imposed under chapter 82.24 RCW (Tax on cigarettes) are collected through sales of revenue stamps.~~

~~As to taxes imposed under chapter 82.04 RCW (Business and occupation tax), chapter 82.08 RCW (Retail sales tax), chapter 82.12 RCW (Use tax), chapter 82.14 RCW (Local sales and use taxes) chapter 82.16 RCW (Public utility tax), chapter 82.27 RCW (Tax on enhanced food fish), chapter 82.29A RCW (Leasehold excise tax), chapter 84.33 RCW (Timber and forest lands), and chapter 82.26 RCW (Tobacco products tax), returns and remittances are to be filed with the department of revenue by the taxpayer. Returns shall be made upon forms provided or approved and accepted by the department. Forms provided by the department are mailed to all registered taxpayers prior to the due date of the tax. The tax reporting frequency is assigned by the department of revenue. See WAC 458-20-22801.~~

(2)) This rule discusses the responsibility of taxpayers to timely pay their tax liabilities, and the acceptable methods of payment. It discusses the interest and penalties that are imposed by law when a taxpayer fails to correctly or timely pay a tax liability. It also discusses the circumstances under which the law allows the department of revenue (department) to waive interest or penalties.

Washington's tax system is based largely on voluntary compliance. Taxpayer's have a legal responsibility to become informed about applicable tax laws, to register with the department, to seek instruction from the department, to file accurate returns, and to pay their tax liability in a timely manner (chapter 82.32A RCW. Taxpayer rights and responsibilities). The department has instituted a taxpayer services program to provide taxpayers with accurate tax-reporting assistance and instructions. The department staffs local district offices, maintains a toll-free question and information phone line (1-800-647-7706), provides information and forms on the Internet (<http://dor.wa.gov>), and conducts free public workshops on tax reporting. The department also publishes notices, interpretive statements, and rules discussing important tax issues and changes.

(2) **Returns.** A "return" is defined as any document a person is required to file by the state of Washington in order to satisfy or establish a tax or fee obligation which is administered or collected by the department, and that has a statutorily defined due date. RCW 82.32.090(8).

(a) Returns and payments are to be filed with the department by every person liable for any tax which the department administers and/or collects, except for the taxes imposed under chapter 82.24 RCW (Tax on cigarettes), which are collected through sales of revenue stamps. Returns must be made upon forms, copies of forms, or by other means, provided or accepted by the department. The department provides tax returns upon request or when a taxpayer opens an active tax reporting account. Tax returns are generally mailed to all registered taxpayers prior to the due date of the tax. However, it remains the responsibility of the taxpayers to timely request a return if one is not received, or to otherwise insure that their return is filed in a timely manner.

(b) Taxpayers whose accounts are placed on an "active nonreporting" status do not automatically receive a tax return and must request a return if they no longer qualify for this reporting status. (See WAC 458-20-101, Tax registration, for an explanation of the active nonreporting status.)

(c) Consumers that are not required to register with the department and obtain a tax registration endorsement (see subsection (2)(a)) may be required to pay use tax directly to the department if they have purchased items without paying Washington's sales tax. Use tax returns are available from the department at any of the local district offices, by fax, or through the Internet. The interest and penalty provisions of this rule may apply to delinquent use tax liabilities, and unregistered consumers should refer to WAC 458-20-178 (Use tax) for an explanation of their tax reporting responsibilities.

(3) Method of payment. Payment ~~((of the taxes))~~ may be made by cash, check, cashier's check, money order, ~~((of))~~ and in certain cases by electronic funds transfers, or other electronic means approved by the department.

(a) Payment by cash ~~((must))~~ should only be made at an office of the department ~~((of revenue))~~ to ensure that the payment is safely received and properly credited.

(b) Payment ~~((of tax))~~ may be made by uncertified bank check, but if ~~((any such))~~ the check is not honored by the ~~((bank))~~ financial institution on which it is drawn, the taxpayer ~~((shall))~~ remains liable for the payment of the tax ~~((and may be subject to))~~, as well as any applicable interest and penalties. RCW 82.32.080. The department may refuse to accept any check which, in its opinion, would not be honored by the ~~((bank))~~ financial institution on which ~~((such))~~ that check is drawn. ~~((The remittance covered by any check which is so refused will be deemed not to have been made and the taxpayer will remain liable for the tax due and for the applicable penalties))~~ If the department refuses a check for this reason the taxpayer remains liable for the tax due, as well as any applicable interest and penalties.

(c) The law requires that certain taxpayers pay their taxes through electronic funds transfers. The department ~~((of revenue will inform))~~ notifies taxpayers who are required to pay their taxes in this manner, and can explain how to set up the electronic funds transfer process. (See WAC 458-20-22802 on electronic funds transfers.)

~~((3))~~ (4) Due dates. ~~((For monthly reporting taxpayers, the tax returns are due on the 25th of the following month. For quarterly and annually reporting taxpayers, the tax~~

~~returns are due on the last day of the next month after the period covered by the return. For example, tax returns covering the first quarter of the year are due on April 30.)~~ RCW 82.32.045 provides that payment of the taxes due with the combined excise tax return must be made monthly and within twenty-five days after the end of the month in which taxable activities occur, unless the department assigns the taxpayer a longer reporting frequency. Payment of taxes due with returns covering a longer reporting frequency are due on or before the last day of the month following the period covered by the return. (For example, payment of the tax liability for a first quarter tax return is due on April 30th.) WAC 458-20-22801 (Tax reporting frequency—Forms) explains the department's procedure for assigning a quarterly or annual reporting frequency.

(a) If the date for ~~((filing the))~~ payment of the tax due on a tax return falls upon a Saturday, Sunday, or legal holiday, the filing shall be considered timely if performed on the next business day. ~~((See))~~ RCW 1.12.070 and 1.16.050.

(b) The postmark date as shown by the post office cancellation mark stamped on the envelope will be considered ~~((as))~~ conclusive evidence by the department in determining if a tax return or payment was timely ~~((mailed by the taxpayer))~~ filed or received. RCW 82.32.080. It is the responsibility of the taxpayer to mail the tax return or payment sufficiently in advance of the due date to assure that the postmark date is timely.

~~((4))~~ Refer to WAC 458-20-22802 (Electronic funds transfer) for more information regarding the electronic funds transfer process, due dates, and requirements.

(5) Penalties. Various penalties may apply as a result of the failure to correctly or accurately compute the proper tax liability, or to timely pay the tax. Separate penalties may apply and be cumulative for ~~((late payment, failure to follow specific written instructions, or evasion))~~ the same tax. Interest may also apply if any tax has not been paid when it is due, as explained in subsection (7) of this rule. Penalties apply as follows.

(a) Late payment of a return. If the tax due on a return is not ~~((filed))~~ paid by the due date, a ~~((5%))~~ five percent penalty will apply; a ~~((10%))~~ ten percent penalty will apply if the ~~((return is not filed within 30 days of))~~ tax due is not paid on or before the last day of the month following the due date; and a ~~((20%))~~ twenty percent penalty will apply if the ~~((return is still delinquent 60 days from))~~ tax due is still not paid on or before the last day of the second month following the due date. The minimum penalty for late payment is five dollars. RCW 82.32.090(1).

(i) The department may refuse to accept any return which is not accompanied by ~~((a remittance))~~ payment of the tax shown to be due ~~((thereon, and if))~~ on the return. If the return is not accepted, the taxpayer ~~((shall be deemed))~~ is considered to have failed or refused to file ~~((a))~~ the return ~~((, and shall be subject to the above penalties))~~. RCW 82.32.080. If the tax return is accepted without payment and payment is not made by the due date, the late penalties will apply ~~((until the tax is paid))~~.

(ii) ~~((The aggregate of penalties for failure to file a return, late payment of any tax, increase or penalty, or issu-~~

ance of a warrant may not exceed thirty five percent of the tax due, or twenty dollars, whichever is greater.

(iii) The department will apply the payment of the taxpayer first against interest, next against penalties, and then upon the tax, without regard to any direction of the taxpayer. In applying a partial payment to a tax assessment, the payment will be applied against the oldest tax liability first. For purposes of RCW 82.32.145, it will be assumed that any payments applied to the tax liability will be first applied against any retail sales tax liability. For example, an audit assessment is issued covering the years 1992 and 1993. The tax assessment includes interest and penalties of five hundred dollars, retail sales tax of four hundred dollars for the year 1992, six hundred dollars retail sales tax for the year 1993, two thousand dollars of other taxes for the year 1992, and seven thousand dollars of other taxes for the year 1993. The order of application of any payments will be first against the five hundred dollars interest and penalties, second against the four hundred dollars retail sales tax in 1992, third against the two thousand dollars of other taxes in 1992, fourth against the six hundred dollars retail sales tax of 1993, and finally against the seven thousand dollars of other taxes in 1993.) The late payment of return penalty is imposed if a person engages in a taxable business activity in Washington without voluntarily registering with the department. The department will consider a person to have voluntarily registered if, prior to contact by the department, that person contacts any other agency or entity participating in the unified business identifier (UBI) program and properly completes and submits a master application for the purpose of obtaining a UBI number, unless the person has:

(A) Collected retail sales tax from customers and failed to pay it to the department; or

(B) Engaged in fraud with respect to reporting their tax liabilities or other tax requirements; or

(C) Engaged in taxable business activities during a period of time in which their previously open tax reporting account has been closed and the person has failed to reopen the account and report their tax liability prior to being contacted by the department; or

(D) Engaged in unreported taxable business activities after their tax registration account was placed in an active-nonreporting status and the person has failed to notify the department that they no longer qualify for that status prior to being contacted by the department. The active-nonreporting status allows taxpayers, under certain conditions, to engage in business activities subject to the Revenue Act without having to file combined excise tax returns with the department. One of the conditions for qualifying for the active-nonreporting status is that the taxpayer may not incur a tax liability. The late payment of return penalty will be imposed if any tax due from unreported business activities is not paid by the due dates used for taxpayers that are on an annual reporting basis.

(b) Late payment of an assessment. An additional penalty of ten percent of the tax due will be added to any taxes assessed by the department if payment of the taxes assessed is not received ((by the department)) by the due date specified in the notice, or any extension ((thereof)) of that due date.

The minimum for this penalty is five dollars. RCW 82.32.090(2).

(c) Issuance of a warrant. If the department ((may issue)) issues a tax warrant ((#) for the collection of any fee, tax, increase, or penalty ((or any portion thereof is not paid within fifteen days after it becomes due. If a warrant is issued, a penalty will be added)), an additional penalty will immediately be added in the amount of five percent of the amount of the tax due, but not less than ten dollars. RCW 82.32.090(3). Refer to WAC 458-20-217 for additional information on the application of warrants and tax liens.

(d) ((Negligence penalty-)) Disregard of specific written instructions. If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting of tax liabilities, ((the department will add a)) an additional penalty of ten percent of the additional tax found due will be imposed because of the failure to follow the instructions. RCW 82.32.090(4).

(i) The taxpayer will be considered ((as having)) to have disregarded specific written instruction when the department ((of revenue)) has informed the taxpayer in writing of its tax obligations and specifically advised the taxpayer that failure to act in accordance with those instructions may result in this penalty being imposed. The specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement. The penalty may be applied only against the taxpayer ((to whom)) given the specific written instructions ((were given)). However, the taxpayer will not be considered ((as having)) to have disregarded the instructions if the taxpayer has appealed the subject matter of the instructions and the department has not issued its final instructions or decision.

(ii) The penalty will not be applied if the taxpayer has made a good faith effort to comply with specific written instructions.

(e) Evasion ((penalty)). If the department finds that all or any part of the deficiency resulted from an intent to evade the tax due, a penalty of fifty percent of the additional tax found to be due shall be added. RCW 82.32.090(5). The evasion penalty is imposed when a taxpayer knows a tax liability is due but attempts to escape detection or payment of the tax liability through deceit, fraud, or other intentional wrongdoing. An intent to evade does not exist where a deficiency is the result of an honest mistake, miscommunication, or the lack of knowledge regarding proper accounting methods. With the exception of the circumstances under which the law provides for a rebuttable presumption (see (e)(iii) of this subsection), the department has the burden of showing the existence of an intent to evade a tax liability through clear, cogent and convincing evidence.

(i) To the extent that the evasion involved only specific taxes, the evasion penalty will be added only to those taxes. The evasion penalty will not be applied to those taxes which were inadvertently underpaid. For example, if ((it is found)) the department finds that the taxpayer intentionally understated the purchase price of equipment in reporting use tax and also inadvertently failed to collect or remit the sales tax at the correct rate on retail sales of merchandise, the evasion

penalty will be added only to the use tax deficiency and not the sales tax.

(ii) ~~((At times it may be necessary for the department to issue its assessment to protect the state's interest prior to completion of its investigation or evaluation of all of the facts and circumstances surrounding the tax deficiency. The department at its option may issue the tax assessment without including the evasion penalty or the penalty for failure to follow written instructions and may revise the assessment to assert the penalty at a later date if it is the department's opinion that these penalties are due. In order to give the taxpayer some certainty and finality of its tax liability, these penalties will be assessed within six months of the time that the tax was assessed to which the penalties relate.~~

~~((iii)) The following is a nonexclusive list of actions that are generally considered to establish an intent to evade a tax liability. This list should only be used as a general guide. A determination of whether an intent to evade exists may be ascertained only after a review of all the facts and circumstances.~~

~~(A) The use of an out-of-state address by a Washington resident to register property to avoid a Washington excise or use tax, when at the time of registration the taxpayer does not reside at the out-of-state address on a more than temporary basis. Examples of such an address include, but are not limited to, the residence of a relative, mail forwarding or post office box location, motel, campground, or vacation property;~~

~~(B) The willful failure of a seller to remit retail sales taxes collected from customers to the department of revenue; and~~

~~(C) The alteration of a purchase invoice or misrepresentation of the price paid for property (e.g., a used vehicle) to reduce the amount of tax owing.~~

~~(iii) Effective July 25, 1999, RCW 82.32.090(5) provides a rebuttable presumption of a tax deficiency and intent to avoid and evade tax in limited circumstances. Chapter 277, Laws of 1999. This rebuttable presumption applies if the Washington state patrol finds that a person has registered or licensed a motor vehicle, an aircraft, a watercraft, a trailer, or a camper in another state to avoid the payment of taxes imposed by chapter 82.48 RCW (Aircraft excise tax), chapter 82.49 RCW (Watercraft excise tax), or chapter 82.12 RCW (Use tax).~~

~~The rebuttable presumption is limited to situations where a person receives a written notice from the state patrol advising them that a penalty is due pursuant to RCW 46.16.010 (2)(a), 47.68.255, 82.48.020, 82.49.010, or 88.02.118, and either:~~

~~(A) Timely makes a written application to the state patrol for a review of the assessed penalty, and the state patrol finds that the person failed to properly register or license a motor vehicle, an aircraft, a watercraft, a trailer, or a camper; or~~

~~(B) Fails to timely make a written application to the state patrol for a review of the assessed penalty.~~

~~(f) Misuse of resale certificates. Any buyer who uses a resale certificate to purchase items or services without payment of sales tax, and who is not entitled to use the certificate for the purchase, will be assessed a penalty of fifty percent of~~

~~the tax due. RCW 82.32.291. The penalty can apply even if there was no intent to evade the payment of the tax. For more information concerning this penalty or the proper use of a resale certificate, refer to WAC 458-20-102 (Resale certificates).~~

~~(g) Failure to remit sales tax to seller. The department may assert an additional ten percent penalty against a buyer who has failed to pay the seller the retail sales tax on taxable purchases, if the department proceeds directly against the buyer for the payment of the tax. This penalty is in addition to any other penalties or interest prescribed by law. RCW 82.08.050.~~

~~(h) Failure to obtain the contractor's unified business identifier (UBI) number. If a person who is liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW contracts with another person or entity for work subject to chapter 18.27 RCW (Registration of contractors) or chapter 19.28 RCW (Electricians and electrical installations), that person must obtain and preserve a record of the UBI number of the person or entity performing the work. A person failing to do so is subject to the public works contracting restrictions in RCW 39.06.010 (Contracts with unregistered or unlicensed contractors prohibited), and a penalty determined by the director, but not to exceed two hundred and fifty dollars. RCW 82.32.070 (1)(b).~~

~~(6) Statutory restrictions on imposing penalties. Depending on the circumstances of a particular delinquent tax liability, the law may impose multiple penalties on the same tax liability. The law does provide a limited number of restrictions on imposing multiple penalties.~~

~~(a) The aggregate of the penalties imposed for the late payment of a return, the late payment of an assessment, and issuance of a warrant (see subsection (5)(a) through (c) of this rule) may be applied against the same tax, but may not exceed a total of thirty-five percent of the tax due, or twenty dollars, whichever is greater. This thirty-five percent penalty limitation does not prohibit or restrict full application of other penalties authorized by law, even when they are applied against the same tax. RCW 82.32.090(6).~~

~~(b) The department may impose either the evasion penalty (subsection (5)(e)) or the penalty for disregarding specific written instructions (as appropriate in its opinion) (subsection (5)(d)), but may not impose both penalties on the same tax (which is found to be due).~~

~~((f) The department will add the late payment penalties described in (a) of this subsection to assessments of those taxpayers which had not voluntarily registered prior to being contacted by the department of revenue. However, a person will be considered to have voluntarily registered with the department of revenue if the person contacted any other agency of the state and was issued a uniform business identifier number prior to being contacted by the department of revenue.~~

~~(g) The department may assert an additional ten percent penalty against a buyer who has failed to pay the seller the retail sales tax on taxable purchases if the department proceeds directly against the buyer for the payment of the tax. Refer to RCW 82.08.050.~~

(5)) RCW 82.32.090(7). The department also will not impose the penalty for the misuse of a resale certificate (subsection (5)(f)) in combination with either the evasion penalty or the penalty for disregarding specific written instructions on the same tax.

(7) Interest. The department ~~((of revenue))~~ is ~~((generally))~~ required by law to add interest to assessments for tax deficiencies and overpayments. RCW 82.32.050. Interest ~~((also))~~ applies to ~~((penalties))~~ taxes only. (Refer to WAC 458-20-229 for a discussion of interest as it relates to refunds and WAC 458-20-230 for a discussion of the statute of limitations as applied to interest.)

(a) For tax liabilities arising before January 1, 1992, interest will be added at the rate of nine percent per annum from the last day of the year in which the deficiency is incurred until the date of payment, or December 31, 1998, whichever comes first. Any interest accrued on these liabilities after December 31, 1998, will be added at the annual variable interest rates described in subsection (7)(e). RCW 82.32.050.

(b) For tax liabilities arising after December 31, 1991, ((until the date of payment)) and before January 1, 1998, interest will be added ((with the rate of interest being variable)) at the annual variable interest rates described in subsection (7)(e), from the last day of the year in which the deficiency is incurred until the date of payment.

(c) For interest imposed after December 31, 1998, interest will be added from the last day of the month following each calendar year included in a notice, or the last day of the month following the final month included in a notice if not the end of the calendar year, until the due date of the notice. However, for 1998 taxes only, interest may not begin to accrue any earlier than February 1, 1999, even if the last period included in the notice is not at the end of calendar year 1998. If payment in full is not made by the due date of the notice, additional interest will be due until the date of payment. The rate of interest continues at the annual variable interest rates described in subsection (7)(e). RCW 82.32.050.

(d) The following is an example of how the interest provisions apply. Assume that a tax assessment is issued with a due date of June 30, 2000. The assessment includes periods from January 1, 1997, through September 30, 1999.

(i) For calendar year 1997 tax, interest begins January 1, 1998, (from the last day of the year). When the assessment is issued the interest is computed through June 30, 2000, (the due date of the assessment).

(ii) For calendar year 1998 tax, interest begins February 1, 1999, (from the last day of the month following the end of the calendar year). When the assessment is issued interest is computed through June 30, 2000, (the due date).

(iii) For the 1999 tax period ending with September 30, 1999, interest begins November 1, 1999, (from the last day of the month following the last month included in the assessment period). When the assessment is issued interest is computed through June 30, 2000, (the due date).

(iv) Interest will continue to accrue on any portion of the assessed taxes which remain unpaid after the due date, until the date those taxes are paid.

(e) The annual variable interest rate ((of interest)) will be an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate will be computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually, for the months of January, April, July, and October of the immediately preceding calendar year as published by the United States Secretary of the Treasury. The interest rate will be adjusted on the first day of January of each year.

((e)) The following are examples of how the interest provisions apply.

(i) Assume a tax assessment is paid on December 31, 1994, and the assessment indicated tax deficiencies in each of the years of 1991, 1992, 1993, and 1994. The interest for 1991 will be calculated at a fixed rate of nine percent per year until the assessment is paid in full. The interest for tax deficiencies in 1992 and 1993 will be calculated at the variable rate discussed in (b) of this subsection. The interest rate for each year is calculated separately. For discussion purposes only, assume the compounded interest rate calculates to be eleven percent for the year 1992 and twelve percent for 1993. Since the tax deficiency for 1992 was not paid for a period of two years from the close of 1992, interest will be charged for two years on the 1992 deficiency. The interest amount is computed by multiplying the tax deficiency by twenty-three percent. The deficiency for 1993 will bear interest at twelve percent and will be computed on the tax deficiency since the deficiency remained unpaid for only one year.

(ii) If the assessment is not paid by the original due date, extension interest will be added based on the rate in effect at the time the extension is granted or the assessment is revised with the exception that extension interest will be computed at nine percent for all tax deficiencies which occurred prior to 1992.

((iii)) (f) If the assessment contains tax deficiencies in some years and overpayments in other years with the net difference being a tax deficiency, the interest rate for tax deficiencies will also be applied to the overpayments. (Refer to WAC 458-20-229 for interest on refunds.)

((6)) (8) Application of payment towards liability. The department will apply taxpayer payments first to interest, next to penalties, and then to the tax, without regard to any direction of the taxpayer. RCW 82.32.080.

(a) In applying a partial payment to a tax assessment, the payment will first be applied against the oldest tax liability. For purposes of RCW 82.32.145 (Termination, dissolution, or abandonment of corporate business—Personal liability of person in control of collected sales tax funds), it will be assumed that any payments applied to the tax liability will be first applied against any retail sales tax liability. For example, an audit assessment is issued covering a period of two years, which will be referred to as "YEAR 1" (the earlier year) and "YEAR 2" (the most recent year). The tax assessment includes total interest and penalties for YEAR 1 and YEAR 2 of five hundred dollars, retail sales tax of four hundred dollars for YEAR 1, six hundred dollars retail sales tax for YEAR 2, two thousand dollars of other taxes for YEAR 1, and seven thousand dollars of other taxes for YEAR 2. The order of application of any payments will be first against the

five hundred dollars of total interest and penalties, second against the four hundred dollars retail sales tax in YEAR 1, third against the two thousand dollars of other taxes in YEAR 1, fourth against the six hundred dollars retail sales tax of YEAR 2, and finally against the seven thousand dollars of other taxes in YEAR 2.

(9) Waiver or cancellation of penalties. ((The department will waive or cancel the penalties imposed under RCW 82.32.090 and interest imposed under RCW 82.32.050 upon finding that the failure of a taxpayer to pay any tax by the due date was due to circumstances beyond the control of the taxpayer. The department has no authority to cancel penalties or interest for any other reason. Penalties will not be cancelled merely because of ignorance or a lack of knowledge by the taxpayer of the tax liability.)) RCW 82.32.105 authorizes the department to waive or cancel penalties under limited circumstances.

(a) Circumstances beyond the control of the taxpayer. The department will waive or cancel the penalties imposed under chapter 82.32 RCW upon finding that the underpayment of the tax, or the failure to pay any tax by the due date, was the result of circumstances beyond the control of the taxpayer. Refer to WAC 458-20-102 (Resale certificates) for examples of circumstances which are beyond the control of the taxpayer specifically regarding the penalty for misuse of resale certificates found in RCW 82.32.291.

(i) A request for a waiver or cancellation of penalties ((must be in letter form and)) should contain all pertinent facts and be accompanied by such proof as may be available. The taxpayer bears the burden of establishing that the circumstances were beyond its control and directly caused the late payment. The request should be made in the form of a letter; however, verbal requests may be accepted and considered. Any petition for ((cancellation)) correction of assessment submitted to the department's appeals division for waiver of penalties must be made within the period for filing under RCW 82.32.160 (within thirty days after the issuance of the original notice of the amount owed or within the period covered by any extension of the due date granted by the department)((. In all such cases the burden of proving the facts is upon the taxpayer.

(b) The following situations will be the only circumstances under which a cancellation of penalties will be considered by the department:

((+)), and must be in writing, as explained in WAC 458-20-100 (Appeals, small claims and settlements). Refund requests must be made within the statutory period.

(ii) The circumstances beyond the control of the taxpayer must actually cause the late payment. Circumstances beyond the control of the taxpayer are generally those which are immediate, unexpected, or in the nature of an emergency. Such circumstances result in the taxpayer not having reasonable time or opportunity to obtain an extension of the due date or otherwise timely file and pay. Circumstances beyond the control of the taxpayer include, but are not necessarily limited to, the following.

(A) The return payment was ((filed)) mailed on time but inadvertently ((mailed)) sent to another agency.

((ii) The delinquency was due to)) (B) Erroneous written information given to the taxpayer by a department officer or employee caused the delinquency. A penalty generally will not be waived when it is claimed that erroneous oral information was given by a department employee. The reason for not cancelling the penalty in cases of oral information is because of the uncertainty of the facts presented, the uncertainty of the instructions or information imparted by the department employee, ((or)) and the uncertainty that the taxpayer fully understood the information ((received)) given. Reliance by the taxpayer on incorrect advice received from the taxpayer's legal or accounting representative is not a basis for cancellation of ((the)) a penalty.

((iii)) (C) The delinquency was directly caused by death or serious illness of the taxpayer, or ((his)) a member of the taxpayer's immediate family((, or illness or death of his accountant or in the accountant's immediate family, prior to the filing date)). The same circumstances apply to the taxpayer's accountant or other tax preparer, or their immediate family. This situation is not intended to have an indefinite application. A death or serious illness which denies a taxpayer reasonable time or opportunity to obtain an extension or to otherwise arrange timely filing and payment is a circumstance eligible for penalty waiver.

((iv)) (D) The delinquency was caused by the unavoidable absence of the taxpayer or key employee, prior to the filing date. "Unavoidable absence of the taxpayer" does not include absences because of business trips, vacations, personnel turnover, or terminations.

((v)) (E) The delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

((vi)) (F) The delinquency was caused by an act of fraud, embezzlement, theft, or conversion on the part of the taxpayer's employee or other persons contracted with the taxpayer, which the taxpayer could not immediately detect or prevent, provided that reasonable safeguards or internal controls were in place. See subsection (9)(a)(iii)(E).

(G) The taxpayer, prior to the time for filing the return, made timely application to the Olympia or district office((, in writing,)) for proper forms and ((these)) the forms were not furnished in sufficient time to permit the completed return to be paid before its ((delinquent)) due date. In this circumstance, the taxpayer kept track of pending due dates and reasonably fulfilled its responsibility by timely requesting replacement returns from the department.

(iii) The following are examples of circumstances that are generally not considered to be beyond the control of the taxpayer and will not qualify for a waiver or cancellation of penalty:

(A) Financial hardship;

(B) A misunderstanding or lack of knowledge of a tax liability;

(C) The failure of the taxpayer to receive a tax return form, EXCEPT where the taxpayer timely requested the form and it was still not furnished in reasonable time to mail the return and payment by the due date, as described in subsection (9)(a)(ii)(G), above;

(D) Registration of an account that is not considered a voluntary registration, as described in subsection (5)(a)(ii);

(E) Mistakes or misconduct on the part of employees or other persons contracted with the taxpayer (not including conduct covered in subsection (9)(a)(ii)(F), above); and

(F) Reliance upon unpublished, written information from the department that was issued to and specifically addresses the circumstances of some other taxpayer.

((vii) The delinquency penalty will be waived or cancelled on a one-time only basis if the delinquent tax return was received under the following circumstances:

(A) The return was received by the department with full payment of tax due within 30 days after the due date; i.e., within the five percent penalty period prescribed by RCW 82.32.090, and

(B) The delinquency was the result of an unforeseen and unintentional circumstance, not immediately known to the taxpayer, which circumstances will include the error or misconduct of the taxpayer's employee or accountant, confusion caused by communications with the department, failure to receive return forms timely, natural disasters such as a flood or earthquake, and delays or losses related to the postal service.

(7)) (b) Waiver of the late payment of return penalty. The late payment of return penalty (see subsection (5)(a) above) may be waived either as a result of circumstances beyond the control of the taxpayer (RCW 82.32.105(1) and subsection (9)(a) of this rule) or after a twenty-four month review of the taxpayer's reporting history, as described below.

(i) If the late payment of return penalty is assessed on a return but is not the result of circumstances beyond the control of the taxpayer, the penalty will still be waived or canceled if the following two circumstances are satisfied:

(A) The taxpayer requests the penalty waiver for a tax return which was required to be filed under RCW 82.32.045 (taxes reported on the combined excise tax return), RCW 82.23B.020 (oil spill response tax), RCW 82.27.060 (tax on enhanced food fish), RCW 82.29A.050 (leasehold excise tax), RCW 84.33.086 (timber and forest lands), RCW 82.14B.030 (tax on telephone access line use); and

(B) The taxpayer has timely filed and paid all tax returns due for that specific tax program for a period of twenty-four months immediately preceding the period covered by the return for which the waiver is being requested. RCW 82.32.105(2).

If a taxpayer has obtained a tax registration endorsement with the department and has engaged in business activities for a period less than twenty-four months, the taxpayer is eligible for the waiver if the taxpayer had no delinquent tax returns for periods prior to the period covered by the return for which the waiver is being requested. (See also WAC 458-20-101 for more information regarding the tax registration and tax reporting requirements.) This is the only situation under which the department will consider a waiver when the taxpayer has not timely filed and paid tax returns covering an immediately preceding twenty-four month period.

(ii) A return will be considered timely for purpose of the waiver if there is no tax liability on it when it is filed. Also, a return will be considered timely if any late payment penalties assessed on it were waived or canceled due to circumstances

beyond the control of the taxpayer (see subsection (9)(a)). The number of times penalty has been waived due to circumstances beyond the control of the taxpayer does not influence whether the waiver in this subsection will be granted. A taxpayer may receive more than one of the waivers in this subsection within a twenty-four month period if returns for more than one of the listed tax programs are filed, but no more than one waiver can be applied to any one tax program in a twenty-four month period.

For example, a taxpayer files combined excise tax returns as required under RCW 82.32.045, and timber tax returns as required under RCW 84.33.086. This taxpayer may qualify for two waivers of the late payment of return penalty during the same twenty-four month period, one for each tax program. If this taxpayer had an unwaived late payment of return penalty for the combined excise tax return during the previous twenty-four month period, the taxpayer may still qualify for a penalty waiver for the timber tax program.

(iii) The twenty-four month period reviewed for this waiver is not affected by the due date of the return for which the penalty waiver is requested, even if that due date has been extended beyond the original due date.

For example, assume a taxpayer's January 1999 return has had the original due date of March 1st extended to April 30th. The return and payment are received after the April 30th extended due date. A penalty waiver is requested. Since the delinquent return represented the month of January, 1999, the twenty-four months which will be reviewed begin on January 1, 1997, and end with December 31, 1998, (the twenty-four months prior to January, 1999). All of the returns representing that period of time will be included in the review. The extension of the original due date has no effect on the twenty-four month period under review.

(10) Waiver or cancellation of interest. The ((following situations will constitute circumstances under which a waiver or cancellation of interest upon assessments pursuant to RCW 82.32.050 will be considered by the)) department will waive or cancel interest imposed under chapter 82.32 RCW only in the following situations:

(a) The failure to pay the tax prior to issuance of the assessment was the direct result of written instructions given the taxpayer by the department((-); or

(b) The extension of the due date for payment of an assessment was not at the request of the taxpayer and was for the sole convenience of the department. RCW 82.32.105(3).

((8)) (11) Stay of collection. ((RCW 82.32.200 provides, "When any assessment or additional assessment (of taxes) has been made, the taxpayer may obtain a stay of collection, under such circumstances and for such periods as the department may by general regulation provide, of the whole or any part thereof, by filing with the department a bond in an amount, not exceeding twice the amount on which stay is desired, and with sureties as the department deems necessary, conditioned for the payment of the amount of the assessments, collection of which is stayed by the bond, together with the interest thereon at the rate of one percent of the amount of such assessment for each thirty days or portion thereof from the due date until paid."))

(Note: RCW 82.32.190 authorizes issuance of an order by the department holding in abeyance tax collection during pendency of litigation. Such tax might be that due on excise tax returns or tax due for unaudited periods for which no assessment has been issued. If, however, an assessment has been issued and is unpaid, RCW 82.32.200, not RCW 82.32.190, is the operative statute for stay of collection with respect to such an assessment.)

(a) The department will give consideration to a request that it grant a stay of collection if:

(i) Written request for the stay is made prior to the due date for payment of the tax assessment, and

(ii) Payment of any unprotested portion of the assessment and other taxes due is timely made, and

(iii) The requested stay is accompanied by an offer of a cash bond, or the offer of a security bond, the conditions of which are guaranteed by a specified authorized surety insurer; in either case the amount of the bond will ordinarily be set in an amount equal to the assessment or portion thereof for which stay is requested together with interest thereon at the rate of one percent per month, but in appropriate cases the department may require a bond in an increased amount not to exceed twice the amount for which stay is requested.

(b)) RCW 82.32.190 allows the department to initiate a stay of collection, without the request of the taxpayer and without requiring any bond, for certain tax liabilities when they may be affected by the outcome of a question pending before the courts (see subsection (11)(a) of this rule). RCW 82.32.200 provides conditions under which the department, at its discretion, may allow a taxpayer to file a bond in order to obtain a stay of collection on a tax assessment (see subsection (11)(b) of this rule). The department will grant a taxpayer's stay of collection request, as described in RCW 82.32.200, only when ((it is satisfied and)) the department determines that ((it)) a stay is in the best interests of the state ((to do so. Factors which it will consider in making this determination include: The existence of 1)).

(a) Circumstances under which the department may consider initiating a stay of collection without requiring a bond (RCW 82.32.190) include, but are not necessarily limited to, the existence of the following:

(i) A constitutional issue to be litigated by the taxpayer, the resolution of which is uncertain; ((2-))

(ii) A matter of first impression for which the department has little precedent in administrative practice; ((and 3-)) or

(iii) An issue affecting other similarly situated taxpayers for whom the department would be willing to stay collection of the tax.

(b) The department will give consideration to a request for a stay of collection of an assessment (RCW 82.32.200) if:

(i) A written request for the stay is made prior to the due date for payment of the assessment; and

(ii) Payment of any unprotested portion of the assessment and other taxes due is made timely; and

(iii) The request is accompanied by an offer of a cash bond, or a security bond that is guaranteed by a specified authorized surety insurer. The amount of the bond will generally be equal to the total amount of the assessment, including any penalties and interest. However, where appropriate, the department may require a bond in an increased amount

not to exceed twice the amount for which the stay is requested.

(c) Claims of financial hardship or threat of litigation are not grounds ((which would)) that justify the granting of a stay of collection. However, the department will consider a claim of significant financial hardship as grounds for staying collection procedures, but this will be done only if a partial payment agreement is executed and kept in accordance with the department's procedures and with such security as the department deems necessary.

(d) If the department grants a stay of collection, the stay will be for a period of no longer than two calendar years from the date of acceptance of the taxpayer request ((therefor)), or thirty days following a decision not appealed from by a tribunal or court of competent jurisdiction upholding the validity of the tax assessed, whichever date occurs first. The department may extend the period of a stay originally granted, but only for good cause shown.

((9)) (e) Interest will continue to accrue against the unpaid tax portion of a liability under stay of collection. Effective January 1, 1997, the interest rates prescribed by RCW 82.32.190 and 82.32.200 changed from nine percent and twelve percent per annum, respectively, to the same predetermined annual variable rates as are described in subsection (7)(e), above.

(12) Extensions. The department, for good cause, may extend the due date for filing any return. Any permanent extension more than ten days beyond the due date, and any temporary extension in excess of thirty days, must be conditional upon deposit by the taxpayer with the department of an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit is credited to the taxpayer's account and may be applied to the taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where a temporary extension of more than thirty days has been granted.

The amount of the deposit is subject to departmental approval. The amount will be reviewed from time to time, and a change may be required at any time that the department concludes that such amount does not approximate the tax liability for the reporting period or periods for which the extension was granted.

WSR 00-04-034

PERMANENT RULES

INSURANCE COMMISSIONER'S OFFICE

[Insurance Commissioner Matter No. R 99-2—Filed January 24, 2000, 4:11 p.m.]

Date of Adoption: January 24, 2000.

Purpose: The primary purpose is to make corrections to chapter 284-43 WAC and address several issues related to interpretations of the existing rules. Some provisions of chapter 284-43 WAC need correction as a consequence of changes in federal and state laws. Finally, new problems have been raised by consumers, by the health care commu-

nity, and by carriers relating to implementation of the rules contained in chapter 284-43 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 284-43-120, 284-43-200, 284-43-210, 284-43-220, 284-43-250, 284-43-710, and 284-43-720.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.120, 48.20.450, 48.20.460, 48.30.010, 48.44.050, 48.46.030, 48.46.200.

Adopted under notice filed as WSR 99-24-132 on December 1, 1999.

Changes Other than Editing from Proposed to Adopted Version: WAC 284-43-120, carrier liability provisions for the acts of subcontractors were changed to limit responsibility for acts or omissions that are at the direction of or on behalf of the carrier. WAC 284-43-125, carrier responsibility for compliance with relevant state and federal laws relating to carriers and health plan benefits was changed to remove references to health care delivery laws. WAC 284-43-200 and 284-43-210, in place of the amendment to the chapter's general definition of "managed care" that broadened reporting requirements, new terms are included in specific sections. WAC 284-43-200(6), carriers are given more flexibility to disclose the existence and use of subnetworks in health plans. WAC 284-43-210, carriers are required to disclose their privacy procedures in required access plans. WAC 284-43-220, carriers are permitted to file a single electronic report for each network rather than a report for each plan using the same network. WAC 284-43-250, several changes are made to the women's direct access section to clarify questions and ambiguities raised in comments. However, major substantive provisions and their intended effect remain unchanged. WAC 284-43-720, provisions describing the method for applying a preexisting condition waiting period under group plans is expanded to address additional questions raised in comments. A new section is added delaying the effective dates for sections that impose new reporting or disclosure standards and for the section prohibiting the use of subnetworks for women's directly accessed care.

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 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing; except WAC 284-43-200 will become effective March 1,

2000; and WAC 284-43-210 and 284-43-220 will become effective January 1, 2001.

January 24, 2000

Deborah Senn

Insurance Commissioner

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-120 Applicability and scope. This chapter shall apply to all health plans and all health carriers subject to the jurisdiction of the state of Washington except as otherwise expressly provided in this chapter. Health carriers are responsible for compliance with the provisions of this chapter and are responsible for the compliance of any person or organization acting on behalf of or at the direction of the carrier, or acting pursuant to carrier standards or requirements concerning the coverage of, payment for, or provision of health care services. A carrier may not offer as a defense to a violation of any provision of this chapter that the violation arose from the act or omission of a participating provider or facility, network administrator, claims administrator, or other person acting on behalf of or at the direction of the carrier, or acting pursuant to carrier standards or requirements under a contract with the carrier rather than from the direct act or omission of the carrier. Nothing in this chapter shall be construed to permit the direct regulation of health care providers or facilities by the office of the insurance commissioner.

NEW SECTION

WAC 284-43-125 Compliance with state and federal laws. Health carriers shall comply with all Washington state and federal laws relating to the acts and practices of carriers and laws relating to health plan benefits.

SUBCHAPTER B HEALTH CARE NETWORKS

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-200 Network adequacy. (1) A health carrier (~~offering a managed care plan~~) shall maintain each plan network in a manner that is sufficient in numbers and types of providers and facilities to assure that all health plan services to covered persons will be accessible without unreasonable delay. In the case of emergency services, covered persons shall have access twenty-four hours per day, seven days per week. The carrier's service area shall not be created in a manner designed to discriminate against persons because of age, sex, family structure, ethnicity, race, health condition, employment status, or socioeconomic status. Each carrier shall ensure that its networks will meet these requirements by the end of the first year of operation; or, for those plans already in existence, (~~within six months after the effective date of this rule~~) by August 22, 1998.

(2) Sufficiency may be established by the carrier with reference to any reasonable criteria used by the carrier, including but not limited to: Provider-covered person ratios by specialty, primary care provider-covered person ratios, geographic accessibility, waiting times for appointments with participating providers, hours of operation, and the volume of technological and specialty services available to serve the needs of covered persons requiring technologically advanced or specialty care. Evidence of carrier compliance with network adequacy standards that are substantially similar to those standards established by state agency health care purchasers (e.g., the state health care authority and the department of social and health services) and by private managed care accreditation organizations may be used to demonstrate sufficiency. At a minimum, a carrier will be held accountable for meeting those standards described under WAC 284-43-220.

(3) In any case where the health carrier has an absence of or an insufficient number or type of participating providers or facilities to provide a particular covered health care service, the carrier shall ensure through referral by the primary care provider or otherwise that the covered person obtains the covered service from a provider or facility within reasonable proximity of the covered person at no greater cost to the covered person than if the service were obtained from network providers and facilities, or shall make other arrangements acceptable to the commissioner.

(4) The health carrier shall establish and maintain adequate arrangements to ensure reasonable proximity of network providers and facilities to the business or personal residence of covered persons. In determining whether a health carrier has complied with this provision, the commissioner will give due consideration to the relative availability of health care providers in the service area under consideration and to the standards established by state agency health care purchasers.

(5) A health carrier shall monitor, on an ongoing basis, the ability and clinical capacity of its network providers and facilities to furnish health plan services to covered persons.

(6) Beginning July 1, 2000, the health carrier shall disclose to covered persons that limitations or restrictions on access to participating providers and facilities may arise from the health service referral and authorization practices of participating providers and facilities. The carrier shall provide instructions to covered persons as to how they can receive details about such practices from their primary care provider or through other formally established processes. For example, a covered person relying on such instructions or processes could discover if the choice of a particular primary care provider would result in the covered person's inability to obtain a referral to certain other participating providers.

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-210 (~~(Network reporting requirement and)~~) **Access plan.** Beginning January 1, 1999, health carriers shall file with the commissioner an access plan meeting the requirements of this subchapter for each of the ((~~managed care~~)) health plans that the carrier offers in this state. The

health carrier shall make the access plans available on its business premises and shall provide them to any interested party upon request. The carrier shall prepare an access plan prior to offering a new ((~~managed care~~)) health plan, and shall update an existing access plan whenever it makes any material change to an existing ((~~managed care~~)) health plan. Upon written request and following written approval by the agency, a carrier may file an access plan that applies to more than one health plan in accordance with any conditions or instructions contained in the written approval. The access plan shall contain at least the following:

(1) A description of the health carrier's network of providers and facilities by license or certification type and by geographic location;

(2) The following provision is a restatement of a statutory requirement found in RCW 48.43.095 (1)(c) included here for ease of reference: "A full description of the procedures to be followed by an enrollee for consulting a provider other than the primary care provider and whether the enrollee's primary care provider, the carrier's medical director, or another entity must authorize the referral";

(3) A description of the health carrier's process for monitoring and assuring on an ongoing basis the sufficiency of the network to provide covered services that meet the health care needs of populations that enroll in managed care plans;

(4) A description of the health carrier's efforts to address the needs of covered persons with limited English proficiency and literacy, with diverse cultural and ethnic backgrounds, and with physical and mental disabilities;

(5) A description of the health carrier's methods for assessing the health care needs of covered persons and their satisfaction with services;

(6) A description of the health carrier's method of informing covered persons of the plan's services and features, including but not limited to, the plan's grievance procedures, its process for covered persons choosing and changing providers, and its procedures for providing and approving emergency and specialty care including the following restated statutory requirements found in RCW 48.43.095 (1)(e), (f), and (i) included here for ease of reference: "Procedures, if any, that an enrollee must first follow for obtaining prior authorization for health care services ..., and ... description of any reimbursement or payment arrangements, including, but not limited to, capitation provisions, fee-for-service provisions, and health care delivery efficiency provisions, between a carrier and a provider ..., and Descriptions and justifications for provider compensation programs, including any incentives or penalties that are intended to encourage providers to withhold services or minimize or avoid referrals to specialists";

(7) A description of the health carrier's system for ensuring the coordination and continuity of care for covered persons referred to specialty providers, for covered persons using ancillary services, including social services and other community resources, and for ensuring appropriate discharge planning;

(8) A description of the health carrier's proposed plan for providing continuity of care in the event of contract termination between the health carrier and any of its participating providers and facilities, or in the event of the health carrier's

insolvency or other inability to continue operations. The description shall explain how covered persons will be notified of the contract termination, or the health carrier's insolvency or other cessation of operations, and transferred to other providers in a timely manner; ~~((and))~~

(9) A description of the health carrier's strategy for integrating public health goals with health services offered to covered persons under the managed care plans of the health carrier, including a description of the health carrier's good faith efforts to initiate or maintain communication with public health agencies~~((:));~~

(10) A description of the health carrier's methods for assessing the health status of its covered persons including a description of how the carrier incorporates findings of local public health community assessments;

(11) A description of the health carrier's policy and procedures relating to health information privacy including information concerning any rights the covered person has to restrict access to health information and to obtain access to their own health information.

With respect to the above required elements of an access plan, each carrier shall provide sufficient information to allow the commissioner and consumers to determine the extent of a carrier's efforts. For example, if a carrier makes little or no effort to coordinate health plan services with public health goals, then the carrier shall report that it does not coordinate services with public health goals.

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-220 Network reports—Format. Beginning January 1, 1999, and by January 31st of every subsequent year, each health carrier shall provide a description of each of its networks to the commissioner. In describing its network, each carrier shall include an explanation of its established access standards, noting the criteria used to measure the standards. For example, a carrier should indicate whether travel distances or driving times are used to determine accessibility. In addition, each carrier shall indicate which providers are classified as primary care providers, obstetric and women's health care providers.

(1) Beginning January 1, 1999, each health carrier shall provide the insurance commissioner with:

(a) An annual electronic or hard copy paper report of all participating providers by ~~((managed care plan))~~ network and monthly updates. This report shall contain all the data items shown in the table. (Form A.) Filing of this data satisfies the reporting requirements of RCW 48.44.080 and the requirements of RCW 48.46.030 relating to filing of notices that describes changes in the provider network.

(b) An annual electronic or hard copy paper report indicating the total number of covered persons who were entitled to health care services during each month of the year, excluding nonresidents, by line of business, by product (with identifying form number filed with this office, if appropriate), by county, and by sex. The report shall conform to the table. (Form B.)

(2) In addition to the provider and covered persons reports, each carrier shall file annual reports meeting the stan-

dards below and shall update the reports whenever a material change in a carrier's provider network occurs that significantly affects the ability of covered persons to access covered services. Each carrier shall file for each ~~((managed care plan))~~ network (with identifying form number(s) filed with this office, if appropriate), using a network accessibility analysis system, such as GeoNetworks or any other similar system:

(a) A map showing the location of covered persons and primary care providers with a differentiation between single and multiple provider locations.

(b) An access table illustrating the relationship between primary care providers and covered persons as of December of each year by county, including at a minimum:

(i) County.

(ii) Total number of covered persons.

(iii) Total number of primary care providers.

(iv) Number of covered persons meeting the carrier's self defined access standard.

(v) Percentage of covered persons meeting the carrier's self defined access standard.

(vi) Average distance to at least one primary care provider for its covered persons.

(c) A list indicating alphabetically by county and by city:

(i) County;

(ii) City;

(iii) Total number of covered persons;

(iv) Total number of primary care providers (or, if the plan is a Preferred Provider Organization style of managed care, the total number of contracted providers);

(v) Total number of obstetric and women's health care providers;

(vi) Total number of specialists;

(vii) Total number of nonphysician providers by license type;

(viii) Total number of hospitals; and

(ix) Total number of pharmacies.

(3) A carrier may vary the method of reporting required under subsection (2) of this section upon written request and subsequent written approval by the commissioner after a showing by the carrier that the carrier does not use or does not have easy access to electronic or data systems permitting the method of reporting required without incurring substantial costs.

PERMANENT

FORM A: PROVIDER LISTING FORMAT

ORGANIZATION REPORTING: _____

FOR THE YEAR ENDED DECEMBER 31, 19____

Permanent

WSR 00-04-034

Washington State Register, Issue 00-04

FIELD NAME	PROVIDER TYPE			FIELD WIDTH	VALID CODES/STANDARD
	PRACTITIONER	HOSPITAL	PHARMACY		
Health Carrier	*	*	*	10	Alpha
Provider Type	*	*	*	1	1=Practitioner, 2=Hospital, 3=Pharmacy
National Provider Identifier					If available
WA Licence Number (Primary)	*			10	AA00000000 (2 Alpha, 8 Numeric)
WA Licence Number (Secondary)	*			10	AA00000000 (2 Alpha, 8 Numeric)
Licence Type	*			12	Alpha
Last Name	*			25	Alpha
First Name	*			15	Alpha
Middle Initial/Name	*			15	Alpha
Birth Date	*			10	Month-Day-Year (XX-XX-XXXX)
Primary Specialty	*			14	Alpha
Secondary Specialty	*			14	Alpha
Languages, other than English	*			30	Alpha, If multiple, truncate and separate with commas
Business on Building	*	*	*	36	Alphanumeric
Address 1	*	*	*	36	Not a PO Box, meets US Postal Service requirements
Address 2	*	*	*	36	Not a PO Box, meets US Postal Service requirements
City	*	*	*	20	Alpha
State	*	*	*	2	WA,OR,ID
Zip	*	*	*	10	Numeric
County	*	*	*	13	Alpha
Day Phone	*			23	(XXX) XXX-XXXX ext XXXXX
Managed Care Plan (s)	*	*	*	60	String with comma separators if multiple
Plan Contract Number (s)	*	*	*	60	String with comma separators if multiple
Provides obstetric care?	*			1	Y=Yes, N=No
PCP, Specialist or Both	*			1	P=PCP, S=Specialist, B= Both
Date Credentialed					Month-Day-Year (XX-XX-XXXX)
Enrollee capacity	*			5	Numeric

* = Required

Date: _____

Signed: _____

Title: _____

FORM B: REPORT OF COVERED PERSONS AND PLAN VOLUME

ORGANIZATION REPORTING: _____ BUSINESS: _____ PRODUCT: _____

FOR THE CALENDAR YEAR ENDED DECEMBER 31, _____

	January			February			March			April			May			June		
	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees
Adams																		
Asotin																		
Benton																		
Chelan																		
Clallam																		
Clark																		
Columbia																		
Cowlitz																		
Douglas																		
Ferry																		
Franklin																		
Garfield																		
Grant																		
Grays Harbor																		
Island																		
Jefferson																		
King																		
Kitsap																		
Kittitas																		
Klickitat																		
Lewis																		
Lincoln																		
Mason																		
Okanogan																		
Pacific																		
Pend Orielle																		
Pierce																		
San Juan																		
Skagit																		
Skamania																		
Snohomish																		
Spokane																		
Stevens																		
Thurston																		
Wahkiakum																		
Walla Walla																		
Whatcom																		
Whitman																		
Yakima																		
Total																		

[63]

Washington State Register, Issue 00-04

WSR 00-04-034

Date _____

Signed _____

Title: _____

PERMANENT

Permanent

FORM B: REPORT OF COVERED PERSONS AND PLAN VOLUME

ORGANIZATION REPORTING: _____ BUSINESS: _____ PRODUCT: _____

FOR THE CALENDAR YEAR ENDED DECEMBER 31, _____

	Jul			Aug			Sept			Oct			Nov			Dec		
	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees	Female enrollees	Male enrollees	Total enrollees
Adams																		
Asotin																		
Benton																		
Chelan																		
Clallam																		
Clark																		
Columbia																		
Cowlitz																		
Douglas																		
Ferry																		
Franklin																		
Garfield																		
Grant																		
Grays Harbor																		
Island																		
Jefferson																		
King																		
Kitsap																		
Kittitas																		
Klickitat																		
Lewis																		
Lincoln																		
Mason																		
Okanogan																		
Pacific																		
Pend Orielle																		
Pierce																		
San Juan																		
Skagit																		
Skamania																		
Snohomish																		
Spokane																		
Stevens																		
Thurston																		
Wahkiakum																		
Walla Walla																		
Whatcom																		
Whitman																		
Yakima																		
Total																		

Date _____

Signed _____

Title: _____

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-250 Health carrier standards for women's right to directly access certain health care practitioners for women's health care services. (1)(a) "Women's health care services" is defined to include, but need not be limited to, maternity care, reproductive health services, gynecological care, general examination, and preventive care as medically appropriate, and medically appropriate follow-up visits for these services. General examinations, preventive care, and medically appropriate follow-up care are limited to services related to maternity, reproductive health services, gynecological care, or other health services that are particular to women, such as breast examinations. Women's health care services also include any appropriate health care service for other health problems, discovered and treated during the course of a visit to a women's health care practitioner for a women's health care service, which is within the practitioner's scope of practice. For purposes of determining a woman's right to directly access health services covered by the plan, maternity care, reproductive health, and preventive services include, contraceptive services, testing and treatment for sexually transmitted diseases, pregnancy termination, breast-feeding, and complications of pregnancy.

(b) A carrier may not exclude or limit access to covered women's health care services offered by a particular type of women's health care practitioner in a manner that would unreasonably restrict access to that type of provider or covered service. For example, a carrier may not impose a limitation on maternity services that would require all child birth to occur in a hospital attended by a physician thus, preventing a woman from choosing and using the birthing services of an advanced registered nurse practitioner specialist in mid-wifery.

(c) A carrier may not impose notification or prior authorization requirements upon women's health care practitioners who render women's health care services or upon women who directly access such services unless such requirements are imposed upon other providers offering similar types of service. For example, a carrier may not require a directly accessed women's health care practitioner to notify the plan within seven days of providing direct women's health care services if a primary care provider would not also be required to provide seven-day notice to the carrier for the same or similar service.

(2) A health carrier shall not deny coverage for medically appropriate laboratory services, imaging services, diagnostic services, or prescriptions for pharmaceutical or medical supplies, which are ordered by a directly accessed women's health care practitioner, and which are within the practitioner's scope of practice, if such services would be covered when provided by another type of health care practitioner. A health carrier shall not require authorization by another type of health care practitioner for these services. For example, if the carrier would cover a prescription if the prescription had been written by the primary care provider, the carrier shall cover the prescription written by the directly accessed women's health care practitioner.

(3)(a) All health carriers shall permit each female policyholder, subscriber, enrolled participant, or beneficiary of carrier policies, plans, and programs written, amended, or renewed after July 23, 1995, to directly access the types of women's health care practitioners identified in RCW 48.42.100(2), for appropriate covered women's health care services without prior referral from another health care practitioner.

(b) Beginning July 1, 2000, direct access may be limited to those women's health care practitioners who have signed participating provider agreements with the carrier for a specific benefit plan network. Irrespective of the financial arrangements a carrier may have with participating providers, a carrier may not limit and shall not permit a network provider to limit access to a subset of participating women's health care practitioners within the network. Such an impermissible limitation might arise when a primary care provider's group practice receives a capitation payment for comprehensive care to a covered person and then represents to the covered person that only those gynecologists in the primary care provider's clinic are available for direct access. Nothing in this subsection shall be interpreted to prohibit a carrier from contracting with a provider to render limited health care services.

(c) Every carrier shall include in each provider network, a sufficient number of each type of practitioner included in the definition of women's health care practitioners in RCW 48.42.100(2) to ensure that enrollees can exercise their right of direct access.

(d) Beginning July 1, 2000, a woman's right to directly access practitioners for health care services as provided under RCW 48.42.100, includes the right to obtain appropriate women's health care services ordered by the practitioner from a participating facility used by the practitioner.

(4) To inform enrollees of their rights under RCW 48.42.100, all health carriers shall include in enrollee handbooks a written explanation of a woman's right to directly access women's health care practitioners for covered women's health care services. Enrollee handbooks shall include information regarding any limitations to direct access, including, but not limited to:

(a) Limited direct access based on a benefit plan's closed network of practitioners, if appropriate; and

(b) The carrier's right to limit coverage to medically necessary and appropriate women's health care services.

(5) No carrier shall impose cost-sharing, such as copayments or deductibles, for directly accessed women's health care services, that are not required for access to health care practitioners acting as primary care providers.

SUBCHAPTER G ISSUANCE, RENEWAL, AND PORTABILITY OF HEALTH PLANS

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-710 Portability of health insurance benefits. (1) Every health carrier shall waive any preexisting

condition exclusion or limitation for persons or groups who had similar health coverage under a different health plan at any time during the three-month period immediately preceding the date of application for the new health plan to the extent that such person was continuously covered under the immediately preceding health plan. If the person was continuously covered for at least three months under the immediately preceding health plan, the carrier may not impose a waiting period for coverage of preexisting conditions unless the plan is dissimilar to the immediately preceding plan as determined in accordance with subsection (4) of this section. If the person was continuously covered for less than three months under the immediately preceding health plan, the carrier may not impose a waiting period for a preexisting condition that exceeds the difference between the number of months the person was continuously covered under the immediately preceding health plan and any preexisting condition waiting period under the new health plan. For purposes of portability of benefits under this section and to meet federal requirements (adapted from the federal definition of "creditable coverage" under section 701 of Public Law 104-191, August 21, 1996), "health plan" includes:

- (a) Employer provided health plans including self-funded plans;
- (b) Part A or part B of Title XVIII of the Social Security Act;
- (c) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928 of the Act;
- (d) Chapter 55 of Title 10, United States Code;
- (e) A medical care program of the Indian Health Service or of a tribal organization;
- (f) The Washington state health insurance pool created under RCW 48.41.040;
- (g) A health plan offered under chapter 89 of Title 5, United States Code;
- (h) The state basic health plan; and
- (i) A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. Sec. 2504(e)).

(2) When an employer providing group health coverage to his or her employees imposes a probationary period or similar delay in eligibility for health plan coverage of new employees, the health carrier shall count the day of first employment with the new employer as the first day of coverage for purposes of applying the portability of benefit provisions of this section so that the new employees and dependents obtain the protections of this rule at the end of such probationary period.

(3) A carrier may not avoid the portability requirements of this section by taking into consideration, for rating purposes, the health condition or health experience of a person applying for an individual health plan or of a person being added to an existing group plan. For example, a person being added to a group or applying for an individual health plan who is availing himself or herself of the portability provisions of this section may not be rated based upon health conditions or past health experience.

(4) For purposes of this section only, a new health plan is similar to the immediately preceding health plan if the actuarial value of the benefits under the new health plan as a

whole is not more than twenty-five percent greater than the benefits provided under the immediately preceding health plan when all cost-sharing and other benefit limitations are taken into consideration.

A health carrier asserting that the new health plan is dissimilar to the immediately preceding health plan of a person applying for coverage must provide such person with a written statement describing the basis for the carrier's determination.

(5) Nothing contained in this section requires a health carrier to amend a health plan to provide new benefits in its existing health plans. For example, if a person was provided maternity benefits under the immediately preceding health plan, the carrier need not amend the new health plan being purchased to provide such benefits if the new health plan being purchased does not include maternity benefits for any covered person. In addition, nothing in this section requires a carrier to waive benefit limitations not related to an individual or group's preexisting conditions or health history. For example, this rule does not apply to a one-year waiting period for use of a particular benefit (e.g., organ transplants) imposed equally upon all covered persons without regard to health condition. However, this rule does prohibit and a carrier may not apply any waiting period or similar exclusion for use of maternity benefits under a group plan whether or not related to preexisting health conditions.

AMENDATORY SECTION (Amending Order R 97-3, filed 1/22/98, effective 2/22/98)

WAC 284-43-720 Guaranteed issue and restrictions on the denial, exclusion, or limitation of health benefits for preexisting conditions. (1) All health carriers shall accept for enrollment any state resident within the carrier's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health conditions, geographic location, employment status, socioeconomic status, other conditions or situation, or HIV status. Thus, health carriers may not reject health plan applicants and may not limit or exclude plan coverage for any reason associated with health risk or perceived health risk except for the imposition of a preexisting condition exclusion as permitted in this chapter.

(2) No carrier may reject an applicant for any health plan it offers based upon preexisting conditions of the applicant or in the case of a group applicant, individuals within the group and no carrier may deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that a carrier may impose a three-month benefit waiting period for preexisting conditions for which medical advice was given, or for which a provider recommended or provided treatment within the three months before the effective date of coverage.

When an employer providing group health coverage to his or her employees imposes a probationary period or similar delay in eligibility for health plan coverage of new employees, the health carrier shall count the day of first employment as the effective date of coverage for purposes of calculating the preexisting condition waiting period. However, if an employee who works in a job category that is

excluded from coverage under the plan later enters a benefits eligible job category, then the carrier shall count from the date the employee first enters the benefits eligible job category. For example, if an employee starts as a benefits ineligible part-time employee and later becomes a benefits eligible full-time employee, the carrier shall count from the date the employee's status changes to full-time.

(3) Genetic information shall not be treated as a health condition in the absence of a diagnosis of the condition related to such information.

(4) A carrier may not impose any preexisting condition exclusion relating to pregnancy as a preexisting condition in group health plans.

(5) No carrier may avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. A new or changed rate classification will be deemed an attempt to avoid the provisions of this section if the new or changed classification would substantially discourage applications for coverage from individuals or groups who are higher than average health risks. For example, a carrier could not create a new rate classification for "uninsurable risks."

(6) The guaranteed issue provisions of this section do not apply to health plans in which the carrier has zero enrollment.

WSR 00-04-038

PERMANENT RULES

UNIVERSITY OF WASHINGTON

[Filed January 25, 2000, 3:02 p.m.]

Date of Adoption: January 21, 2000.

Purpose: The purpose of chapter 478-132 WAC is to promulgate the academic calendar for the University of Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 478-132-010 and 478-132-030.

Statutory Authority for Adoption: RCW 28B.20.130.

Adopted under notice filed as WSR 99-20-086 on October 5, 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 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 24, 2000

Rebecca Goodwin Dearnorff

Director, Administrative Procedures

Chapter 478-132 WAC

ACADEMIC CALENDAR FOR THE UNIVERSITY OF WASHINGTON

AMENDATORY SECTION (Amending Order 72-10, filed 11/30/72)

WAC 478-132-010 Authority. Pursuant to the authority granted by ((sections 28B.20.130, chapter 223, Laws of 1969 ex. sess. ()))RCW 28B.20.130(()), the board of regents of the University of Washington has established the following regulations governing the university calendar.

AMENDATORY SECTION (Amending Order 79-7, filed 2/22/80)

WAC 478-132-030 University calendar. The calendar at the university consists of four quarters, which normally begin and end as follows:

(1) The autumn quarter shall begin on September 25 when it falls on a Monday, otherwise it shall begin on the first Monday following September 25, and end on the twelfth Thursday thereafter. ((The autumn quarter of the school of law shall begin on the Wednesday prior thereto.))

(2) The winter quarter shall begin on the first Monday after January 1 and end on the eleventh Friday thereafter. When January 1 falls on Sunday, the winter quarter shall begin on January 3; when January 1 falls on Monday, the winter quarter shall begin on January 2.

(3) The spring quarter shall begin on the second Monday after the close of winter quarter and end on the eleventh Friday thereafter. The June commencement shall be the Saturday immediately following the last day of spring quarter.

(4) The summer quarter shall begin on the second Monday following the June commencement and end on the ninth Friday thereafter. ((The summer quarter of the school of law shall begin on the Monday following the June commencement and end on the Friday of the eleventh week thereafter. The summer quarter of the school of dentistry shall begin on the third Monday following the June commencement and end on the fifth Friday thereafter.))

(5) Certain academic programs may begin or end on schedules different from those in subsections (1) through (4) of this section with the approval of the provost. In such cases, it will be the responsibility of the appropriate dean to provide advance notice to the affected students.

PERMANENT

WSR 00-04-039
PERMANENT RULES
UNIVERSITY OF WASHINGTON

[Filed January 25, 2000, 3:09 p.m.]

Date of Adoption: January 21, 2000.

Purpose: Chapter 478-324 WAC implements the State Environmental Policy Act rules and regulations for the University of Washington.

Citation of Existing Rules Affected by this Order: Repealing WAC 478-324-050; and amending WAC 478-324-020, 478-324-030, 478-324-040, 478-324-060, 478-324-070, 478-324-090, 478-324-110, 478-324-120, 478-324-130, 478-324-140, 478-324-150, 478-324-170, 478-324-180, 478-324-190, 478-324-200, and 478-324-210.

Statutory Authority for Adoption: RCW 43.21C.120.

Adopted under notice filed as WSR 99-19-096 on September 20, 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 1, Amended 16, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 16, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 24, 2000

Rebecca Goodwin Deardorff
 Director, Administrative Procedures

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-020 Adoption by reference. The university hereby adopts by reference the following sections of the 1984 SEPA rules, chapter 197-11 of the Washington Administrative Code.

General Requirements

WAC

197-11-040	Definitions.
197-11-050	Lead agency.
197-11-055	Timing of the SEPA process.
197-11-060	Content of environmental review.
197-11-070	Limitations on actions during SEPA process.
197-11-080	Incomplete or unavailable information.
197-11-090	Supporting documents.
197-11-100	Information required of applicants.

<u>197-11-250</u>	<u>SEPA/Model Toxics Control Act integration.</u>
<u>197-11-253</u>	<u>SEPA lead agency for MTCA actions.</u>
<u>197-11-256</u>	<u>Preliminary evaluation.</u>
<u>197-11-259</u>	<u>Determination of nonsignificance for MTCA remedial actions.</u>
<u>197-11-262</u>	<u>Determination of significance and EIS for MTCA remedial actions.</u>
<u>197-11-265</u>	<u>Early scoping for MTCA remedial actions.</u>
<u>197-11-298</u>	<u>MTCA interim actions.</u>

Categorical Exemptions and Threshold Determination

WAC

197-11-300	Purpose of this part.
197-11-305	Categorical exemptions.
197-11-310	Threshold determination required.
197-11-315	Environmental checklist.
197-11-330	Threshold determination process.
197-11-335	Additional information.
197-11-340	Determination of nonsignificance (DNS).
197-11-350	Mitigated DNS.
197-11-360	Determination of significance (DS)/initiation of scoping.
197-11-390	Effect of threshold determination.

Environmental Impact Statement (EIS)

WAC

197-11-400	Purpose of EIS.
197-11-402	General requirements.
197-11-405	EIS types.
197-11-406	EIS timing.
197-11-408	Scoping.
197-11-410	Expanded scoping. (Optional)
197-11-420	EIS preparation.
197-11-425	Style and size.
197-11-430	Format.
197-11-435	Cover letter or memo.
197-11-440	EIS contents.
197-11-442	Contents of EIS on nonproject proposals.
197-11-443	EIS contents when prior nonproject EIS.
197-11-444	Elements of the environment.
197-11-448	Relationship of EIS to other considerations.
197-11-450	Cost-benefit analysis.
197-11-455	Issuance of DEIS.
197-11-460	Issuance of FEIS.

Commenting

WAC

197-11-500	Purpose of this part.
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197-11-502	Inviting comment.
197-11-504	Availability and cost of environmental documents.
197-11-508	SEPA register.
197-11-510	Public notice.
197-11-535	Public hearings and meetings.
197-11-545	Effect of no comment.
197-11-550	Specificity of comments.
197-11-560	FEIS response to comments.
197-11-570	Consulted agency costs to assist lead agency.

Using Existing Environmental Documents

WAC

197-11-600	When to use existing environmental documents.
197-11-610	Use of NEPA documents.
197-11-620	Supplemental environmental impact statement—Procedures.
197-11-625	Addenda—Procedures.
197-11-630	Adoption—Procedures.
197-11-635	Incorporation by reference—Procedures.
197-11-640	Combining documents.

SEPA and Agency Decisions

WAC

197-11-650	Purpose of this part.
197-11-655	Implementation.
197-11-660	Substantive authority and mitigation.
197-11-680	Appeals.

Definitions

WAC

197-11-700	Definitions.
197-11-702	Act.
197-11-704	Action.
197-11-706	Addendum.
197-11-708	Adoption.
197-11-710	Affected tribe.
197-11-712	Affecting.
197-11-714	Agency.
197-11-716	Applicant.
197-11-718	Built environment.
197-11-720	Categorical exemption.
197-11-721	<u>Closed record appeal.</u>
197-11-722	Consolidated appeal.
197-11-724	Consulted agency.
197-11-726	Cost-benefit analysis.
197-11-728	County/city.

197-11-730	Decision maker.
197-11-732	Department.
197-11-734	Determination of nonsignificance (DNS).
197-11-736	Determination of significance (DS).
197-11-738	EIS.
197-11-740	Environment.
197-11-742	Environmental checklist.
197-11-744	Environmental document.
197-11-746	Environmental review.
(197-11-748	Environmentally sensitive area-))
197-11-750	Expanded scoping.
197-11-752	Impacts.
197-11-754	Incorporation by reference.
197-11-756	Lands covered by water.
197-11-758	Lead agency.
197-11-760	License.
197-11-762	Local agency.
197-11-764	Major action.
197-11-766	Mitigated DNS.
197-11-768	Mitigation.
197-11-770	Natural environment.
197-11-772	NEPA.
197-11-774	Nonproject.
197-11-775	<u>Open record hearing.</u>
197-11-776	Phased review.
197-11-778	Preparation.
197-11-780	Private project.
197-11-782	Probable.
197-11-784	Proposal.
197-11-786	Reasonable alternative.
197-11-788	Responsible official.
197-11-790	SEPA.
197-11-792	Scope.
197-11-793	Scoping.
197-11-794	Significant.
197-11-796	State agency.
197-11-797	Threshold determination.
197-11-799	Underlying governmental action.

Categorical Exemptions

WAC

197-11-800	Categorical exemptions.
197-11-810	<u>Exemptions and nonexemptions applicable to specific state agencies.</u>
197-11-820	<u>Department of licensing.</u>
197-11-825	<u>Department of labor and industries.</u>
197-11-830	<u>Department of natural resources.</u>
197-11-835	<u>Department of fisheries.</u>

- 197-11-840 Department of game.
- 197-11-845 Department of social and health services.
- 197-11-850 Department of agriculture.
- 197-11-855 Department of ecology.
- 197-11-860 Department of transportation.
- 197-11-865 Utilities and transportation commission.
- 197-11-870 Department of commerce and economic development.
- 197-11-875 Other agencies.
- 197-11-880 Emergencies.
- 197-11-890 Petitioning DOE to change exemptions.

Agency Compliance

WAC

- 197-11-900 Purpose of this part.
- 197-11-902 Agency SEPA policies.
- 197-11-904 Agency SEPA procedures.
- 197-11-906 Content and consistency of agency procedures.
- 197-11-910 Designation of responsible official.
- 197-11-912 Procedures of consulted agencies.
- 197-11-914 SEPA fees and costs.
- 197-11-916 Application to ongoing actions.
- 197-11-917 Relationship to chapter 197-10 WAC.
- 197-11-918 Lack of agency procedures.
- 197-11-920 Agencies with environmental expertise.
- 197-11-922 Lead agency rules.
- 197-11-924 Determining the lead agency.
- 197-11-926 Lead agency for governmental proposals.
- 197-11-928 Lead agency for public and private proposals.
- 197-11-930 Lead agency for private projects with one agency with jurisdiction.
- 197-11-932 Lead agency for private projects requiring licenses from more than one agency, when one of the agencies is a county/city.
- 197-11-934 Lead agency for private projects requiring licenses from a local agency, not a county/city, and one or more state agencies.
- 197-11-936 Lead agency for private projects requiring licenses from more than one state agency.
- 197-11-938 Lead agencies for specific proposals.
- 197-11-940 Transfer of lead agency status to a state agency.
- 197-11-942 Agreements on lead agency status.
- 197-11-944 Agreements on division of lead agency duties.
- 197-11-946 DOE resolution of lead agency disputes.
- 197-11-948 Assumption of lead agency status.
- 197-11-950 Severability.

- 197-11-955 Effective date.

Forms

WAC

- 197-11-960 Environmental checklist.
- 197-11-965 Adoption notice.
- 197-11-970 Determination of nonsignificance (DNS).
- 197-11-980 Determination of significance and scoping notice (DS).
- 197-11-985 Notice of assumption of lead agency status.
- 197-11-990 Notice of action.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-030 Additional consideration in timing of threshold determination and EIS process. (1) For project-type actions involving construction or modification of facilities, the threshold determination, DNS, mitigated-DNS, or draft EIS shall be completed ~~((prior to))~~ **no later than** the authorization to prepare ~~((working drawings))~~ **construction documents**. When an EIS is required, the final EIS shall be issued no later than seven days prior to the award of a construction contract.

(2) For nonproject-type actions, the threshold determination ~~((and any required))~~, DNS, mitigated-DNS, or EIS shall be completed prior to final approval or adoption of the proposal by the board of regents or agent delegated by the board to take such action. When an EIS is required, the final EIS shall be issued no later than seven days prior to the approval or adoption of a proposal.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-040 SEPA advisory committee established for environmental review. A SEPA advisory committee (the committee) shall be established to assist the university with environmental review and with integrating SEPA procedures with the planning and decision((-))making process. The committee shall aid the university in complying with the State Environmental Policy Act (chapter 43.21C RCW) and State Environmental Policy Act rules (chapter 197-11 WAC), except for those actions pertaining to the metropolitan tract. The committee shall consist of members representing the students, faculty, and staff of the university and shall be appointed by the president. It shall be the mission of the committee to ensure that sound decision((-))making at the university includes early consideration of environmental values and goals and timely preparation and review of environmental analysis. ~~((This mission shall be carried out in the following ways:~~

~~((1) The committee shall adopt procedures which provide for the review of environmental documents within the time limits established by WAC 197-11-455(6), 197-11-340, and 197-11-408.~~

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~~(2) The committee shall be involved from the initiation of the university's scoping procedures.~~

~~(3) The committee shall review all nonexempt actions for compliance with the provisions of the SEPA rules. Generally, review shall occur:~~

~~(a) At the earliest possible time after a proposed action is sufficiently well defined to permit meaningful environmental analysis.~~

~~(b) In all cases, before a final decision has been made.~~

~~(4) Specifically, committee review shall occur:~~

~~(a) After completion of an environmental checklist but before threshold determination.~~

~~(b) Prior to the responsible official's reconsideration of the threshold determination if substantive comments have been received regarding the DNS.~~

~~(c) Prior to the responsible official issuing a mitigated DNS.~~

~~(d) Prior to the publication of any draft EIS.~~

~~(e) Prior to the publication of any final EIS.~~

~~(5) At least one member representing the committee shall attend public hearings on the environmental impact of a proposal.~~

~~(6) To enable the SEPA advisory committee to be involved in the university's SEPA procedures at the earliest possible time, the university environmental planning staff shall:~~

~~(a) Review capital project programs, project proposals, and nonproject proposals to identify potential environmental issues and/or constraints.~~

~~(b) Consult with the chairperson on significant issues to determine which issues should be reviewed with the full committee.~~

~~(7) The committee's recommendations shall be advisory and shall not relieve the responsible officials of their responsibilities as established by these procedures.)~~

NEW SECTION

WAC 478-324-045 SEPA committee responsibility.

(1) The responsible official shall consult with the committee as follows: (a) After completion of an environmental checklist but before threshold determination.

(b) Prior to the responsible official's reconsideration of the threshold determination if substantive comments have been received regarding the DNS.

(c) Prior to the responsible official issuing a mitigated DNS.

(d) Prior to the issuance of a scoping notice.

(e) Prior to the publication of any draft EIS.

(f) Prior to the publication of any final EIS.

(2) Committee review of DNS and mitigated DNS may occur without a formal meeting.

(3) The university shall give the committee notice of public hearings on the environmental impact of a proposal.

(4) The committee's recommendations shall be advisory and shall not relieve the responsible officials of their responsibilities as established by these procedures.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-060 Additional considerations in determination of nonsignificance. (1) The responsible official shall send the DNS and environmental checklist to agencies with jurisdiction, the city-university community advisory committee, and the SEPA advisory committee.

(2) If the university withdraws a DNS and makes a new threshold determination, the responsible official shall send notice of any withdrawn DNS and new threshold determination to agencies with jurisdiction, the city-university community advisory committee, and the SEPA advisory committee ((shall be advised of any withdrawn DNS and the reasons for its withdrawal)).

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-070 Additional considerations in mitigated DNS. (1) In consultation with the SEPA advisory committee, ~~((city-university community advisory committee, and other agencies with jurisdiction,))~~ the responsible official will determine if there are mitigating measures and clarifications or changes to the environmental checklist which would reduce impacts to the extent that a mitigated DNS could be issued.

(2) All mitigation measures in a mitigated DNS for a proposed project shall be included in the final project, with the exception of any measures clearly the responsibility of another agency.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-090 Additional considerations in determination of significance and scoping. (1) Scoping shall be used for EIS's and supplemental EIS's.

(2) The university shall notify members of the SEPA advisory committee, the city-university community advisory committee, agencies with jurisdiction, and others on the university SEPA mailing list of the DS and the initiation of this scoping process. Written comments shall be provided to the university within twenty-one days of the issuance of the DS.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-110 Additional recipients of DEIS. (1) The university shall send copies of the draft EIS to the SEPA advisory committee~~((,))~~ and the city-university community advisory committee~~((, other agencies with jurisdiction, and all individuals, organizations and agencies who provided comments during the scoping process)).~~

(2) The university shall provide notice of the draft EIS to all individuals, organizations and agencies who provided comment during the scoping process.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-120 Additional recipients of FEIS. ((A final EIS (FEIS) shall be issued by the responsible official and shall be sent to)) (1) The university shall send copies of the final EIS to the SEPA advisory committee and the city-university community advisory committee((, agencies with jurisdiction, the SEPA advisory committee, all other individuals, organizations and agencies who provided comments on the draft EIS, and to anyone requesting an FEIS. Notices of availability of the final EIS shall be sent to others on the SEPA mailing list and to those who expressed an interest in the draft EIS, but who did not provide comments)).

(2) The responsible official shall send notice of availability of the final EIS to anyone who received and/or commented on the DEIS.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-130 Establishment of SEPA information center. (1) The University of Washington Visitors((?) Information Center shall serve as the university's SEPA information center.

(2) The following documents shall be maintained at the SEPA ((public)) information center:

(a) Copies of all SEPA public information registers for a period of one year from the date of publication.

(b) Copies of all environmental checklists, determinations of nonsignificance and determinations of significance for a period of one year from the date of issue.

(c) Copies of all current scoping and public hearing notices.

(d) Copies of all draft and final EIS's for a period of three years after the date of publication, except that technical appendices need not be maintained at the SEPA information center if adequate notice is provided regarding where on campus such appendices are located.

(e) Copies of all ((documents)) draft and final EIS's which have been incorporated by reference ((in the environmental assessments)) shall be maintained at the SEPA information center for the same time period as the underlying document is maintained.

(f) A current list of individuals designated as responsible officials for university compliance with SEPA.

(g) A current membership list of the SEPA advisory committee.

(h) Copies of agendas and minutes of the SEPA advisory committee for a period of one year after the date of issue.

(3) The documents at the SEPA information center shall be available for public inspection and copies thereof shall be provided upon request. A fee to cover the actual cost of printing/copying may be charged for copies.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-140 Additional methods of public notice. The university shall provide public notice of scoping,

DNS with comment period, public hearings scheduled in accordance with these procedures and availability of draft and final EIS's by:

(1) ~~((Sending copies of the document or notice of availability of the document to those identified in WAC 478-324-090 above;~~

(2)) Posting a notice on or near the proposed site (for project EIS's);

~~((3))~~ (2) Providing notice in such form as a press release or advertisement in ~~((the University Week, University of Washington Daily, and a Seattle newspaper of general circulation))~~ a legal newspaper of general circulation in the area where the property which is the subject of the action is located (e.g., Daily Journal of Commerce).

(3) Providing notice in such form as a press release or advertisement in the University Week and University of Washington Daily. If the University Week and/or the University of Washington Daily is not in publication, then notice shall instead be published in a newspaper of general circulation in the area where the property which is the subject of the action is located (e.g., The Seattle Times or The Seattle Post-Intelligencer).

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-150 Additional definitions. (1) "Final action" means the university's decision to proceed or not proceed with a proposal and is so defined in compliance with public notice requirements, RCW 43.21C.080. For proposals involving a series of decision points, the final action shall be clearly identified in the environmental checklist and/or EIS. The point at which the final action is made during the planning process may vary depending upon the nature of the proposal, but at no time shall the final action occur before ~~((fifteen))~~ fourteen days following issuance of a DNS or seven days following issuance of an FEIS.

(2) ~~((("Lead unit" means that unit of the university which is responsible for preparing the environmental checklist, making the threshold determination, and preparing the draft and final EIS's.~~

(3)) "SEPA mailing list" means a current list maintained at the ~~((campus planning))~~ capital projects office at the university of all individuals, groups, and agencies who have communicated to the university their interest in SEPA policies, procedures, and documents. This list shall include the city-university community advisory committee and all community organizations represented on the committee, including those with alternative representation.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-170 Emergencies. Actions that must be undertaken immediately or within a time too short to allow full compliance with these rules, to avoid an imminent threat to public health or safety, to prevent an imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation, shall be exempt from the

procedural requirements of this chapter. Such actions include, but are not limited to, the following:

(1) Emergency pollution control actions responding to accidental discharges, leaks or spills into the air, ~~((state))~~ water~~((s))~~, or ~~((on))~~ land.

(2) Implementation of a change in waste disposal procedures caused by unanticipated changes in waste sources which are in compliance with federal and state regulations and standards.

(3) Clean-up or decontamination of academic and research facilities or equipment ~~((accidentally))~~ accidentally exposed or contaminated, to permit maintenance, repair or relocation, when procedures followed are in accordance with federal or state guidelines, recommendations, or standards.

(4) Emergency actions implemented to reduce an imminent hazard to the health and safety of an element of the university resulting from structural failure, equipment malfunction, human error or natural event.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-180 Designation of responsible official. ~~((1) The president shall appoint a responsible official for each unit of the university which may propose a nonexempt action.~~

~~((2))~~ The ((director of campus planning)) assistant vice president for capital projects or his or her designee shall serve as the responsible official for ((any unit of the)) all university ((which requests that the campus planning office serve as the lead unit)) projects.

~~((3) Responsible officials shall carry out the duties and functions of the university with regard to these rules for all major actions initiated by their unit.)~~

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-190 Procedures on consulted agencies. The ~~((campus planning))~~ capital projects office shall be responsible for coordinating, receiving, and reviewing comments and requests for information from agencies regarding threshold determinations, scoping, EIS's, and supplemental EIS's.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-200 Determining the lead agency. (1) Except as otherwise specially provided herein, the university shall serve as the lead agency for all proposals ~~((it initiates. In the event that one or more additional agencies share in the implementation of the proposal, the university and the agencies shall by agreement determine which agency will assume the status of lead agency. Any dispute over lead agency determination shall be settled in accordance with the provisions of WAC 197-11-946)).~~

(2) When the total proposal will involve both private and university construction activity, it shall be characterized as either a private or a university project for the purposes of lead

agency designation, depending upon whether the primary sponsor or initiator of the project is the university or a private party. Any project in which university and private interests are too intertwined to make this characterization shall be considered a university project.

(3) The university's responsibilities as lead agency include complying with the threshold determination procedures; the initiation and administration of the scoping process; the supervision or actual preparation of draft EIS's, including the circulation of such statements, the conduct of any public hearings or public meetings required by these rules; and the supervision or preparation of required final EIS's and supplemental EIS's.

AMENDATORY SECTION (Amending WSR 84-20-074, filed 10/2/84)

WAC 478-324-210 Determination of lead unit. (1) For university actions subject to SEPA, the ~~((campus planning))~~ capital projects office ~~((or the university academic or administrative unit initiating or administering the action))~~ shall be charged with the university's lead agency responsibilities.

~~((2) ((For actions involving more than one university unit, the involved units shall by agreement determine which unit will assume the university's lead agency responsibilities. Any dispute as to lead unit determination shall be resolved by the president.~~

~~((3))~~ The ((campus planning)) capital projects office shall have primary university responsibility for providing procedural advice with regard to these rules.

(3) All university units with environmental expertise should strive to make their services available to ~~((lead units))~~ the capital projects office to assist in the university's compliance with SEPA.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 478-324-050 Additional considerations in threshold determination process.

**WSR 00-04-046
PERMANENT RULES
DEPARTMENT OF LICENSING**

[Filed January 27, 2000, 9:53 a.m.]

Date of Adoption: January 15, 2000.

Purpose: Meet criteria supporting Governor Locke's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 308-56A-465 and 308-56A-470; and amending WAC 308-56A-450 and 308-56A-455.

Statutory Authority for Adoption: RCW 46.01.110.

PERMANENT

Adopted under notice filed as WSR 99-23-092 on November 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 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 2.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 2, Repealed 2; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 26, 2000

Fred Stephens

Director

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

WAC 308-56A-450 Glider kits. (1) What is a glider kit? A glider kit ~~((is))~~ consists of a new cab ~~((and))~~, chassis, front axle, fenders and air-hose equipment designed for assembly with an existing truck or truck-tractor's rear axle(s), ~~((wheels))~~ and power train.

(2) How are glider kits described on a certificate of ownership? The following ~~((procedures will be followed in filing an application for title))~~ identifiers will be shown on the certificate of ownership:

(a) The model year of the vehicle ~~((will be the year))~~ as designated by the kit manufacturer or the Washington state patrol;

(b) The make of the vehicle will be the make of the kit;

(c) The series and body type will include the initials GL;

(d) The identification number of the vehicle ~~((will be))~~ as determined by an authorized vehicle identification inspector.

(3) What documents shall be submitted with an application for certification of ownership for glider kits? The application for ~~((title must))~~ certificate of ownership shall be accompanied by the following documents:

(a) The previously issued certificate ~~((s of title))~~ of ownership, bill(s) of sale or manufacturer's certificate of origin (MCO);

(b) The previously issued gross weight license when applying for credit against the registration fee, if applicable;

(c) A certificate of inspection by an authorized member of the Washington state patrol or other personnel authorized by the director verifying the vehicle identification number and of component parts not included in the glider kit ~~((manufacturer's statement of origin (MSO)))~~ MCO;

(d) A certified weight slip showing the new scale weight of the vehicle;

(e) An ~~((MSO))~~ MCO or bill of sale of the kit;

(f) A declaration of value form provided by the department.

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

WAC 308-56A-455 Assembled and homemade vehicles. ~~((1) Assembled and homemade vehicles are vehicles that have either (a) been put together by using major component parts from two or more commercially manufactured vehicles (major component parts often carry separate identification numbers); (b) have been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or (c) have been put together from parts and materials not obtained from other vehicles. An assembled vehicle can be one that has been sold by a wrecker who listed the vehicle on his wrecker's report pursuant to chapter 308-61 WAC. The difference between an assembled and a homemade vehicle is that an assembled vehicle will be recognizable as one produced by a particular manufacturer. A homemade vehicle will be a vehicle that cannot, visually, be identified as one produced by a particular manufacturer. The model year of a homemade vehicle will be the original year of licensing and the make will be homemade.~~

(2) The following procedures must be followed in applying for a certificate of title:

(a) If the assembly or repair of the vehicle will involve the removal, destruction, or concealment of any identification number, the parts shall be inspected by an authorized member of the Washington state patrol prior to the removal, destruction, or concealment of the number.

(b) The vehicle identification number will be determined and/or assigned by an authorized member of the Washington state patrol, or other personnel authorized by the director.

(c) The application for certificate of title must be accompanied by the following documents:

(i) The certificate of title for each vehicle used in the assembly of the vehicle or bills of sale for each major component part used in the assembly of the vehicle. The bills of sale must be notarized unless the vendor has a regular place of business and is registered with the department of revenue as an agent for use tax purposes. Such bill of sale shall include the names and addresses of the seller and purchaser; a description of the vehicle or part being sold, including the make, model and identification or serial number; the date of sale; and the purchase price of the vehicle or part.

(ii) A statement from the authorized inspector verifying the vehicle identification number.

(iii) A declaration of value form provided by the department.) (1) What constitutes an assembled vehicle? An assembled vehicle is a vehicle that has been put together by using major component parts from two or more commercially manufactured vehicles. Further, major component parts often carry separate identification numbers. For the purposes of this section major component parts include replacement of those listed in RCW 46.80.010(3). Assembled vehicles are not glider kits, custom built, replica, or kit vehicles.

(2) What constitutes a homemade vehicle? A homemade vehicle is a vehicle that has been structurally modified

so that it does not have the same appearance as a similar vehicle from the same manufacturer or has been put together from parts and materials other than major component parts.

(3) What is the difference between an assembled vehicle and a homemade vehicle? The difference between an assembled and a homemade vehicle is that an assembled vehicle will be recognizable as one produced by a particular manufacturer. A homemade vehicle will be a vehicle that cannot visually be identified as one produced by a particular manufacturer. The model year of a homemade vehicle will be the original year of licensing and the make will be homemade.

(4) How do I apply for a certificate of ownership for my assembled vehicle? The application for certificate of ownership must be accompanied by the following documents:

(a) The certificate of ownership for each vehicle used in the assembly of the vehicle or bills of sale for each major component part used in the assembly of the vehicle. The bills of sale must be notarized unless the vendor has a regular place of business and is registered with the department of revenue as an agent for use tax purposes. The bill(s) of sale shall include:

(i) The names and addresses of the seller and purchaser;
(ii) A description of the part being sold, including the make, model and identification or serial number;

(iii) The date of sale;

(iv) The purchase price of the part; and

(v) The stock number if from a Washington licensed wrecker.

(b) A statement of fact from an authorized member of the Washington state patrol or other personnel authorized by the director verifying the vehicle identification number, make, model, year and roadworthiness.

(c) A declaration of value form provided by the department.

(5) What happens if I must remove, destroy or conceal a vehicle identification number during assembly of my vehicle? Prior to the assembly of a vehicle that will involve the removal, destruction, or concealment of any vehicle identification number, the parts shall be inspected by an authorized member of the Washington state patrol or other personnel authorized by the director who will issue a statement of fact. After assembly and a vehicle identification number has been removed, destroyed or concealed, a new vehicle identification number will be determined and assigned by an authorized member of the Washington state patrol, or other personnel authorized by the director and a new statement of fact will be issued.

(6) How do I apply for a certificate of ownership for my homemade vehicle? The application for certificate of ownership must be accompanied by the following documents:

(a) Bills of sale for each major component part used in the assembly of the vehicle. The bills of sale must be notarized unless the vendor has a regular place of business and is registered with the department of revenue as an agent for use tax purposes and shall include:

(i) The names and addresses of the seller and purchaser;

(ii) A description of the vehicle or part being sold, including the make, model and identification or serial number;

(iii) The date of sale; and

(iv) The purchase price of the vehicle or part.

(b) A statement from an authorized member of the Washington state patrol or other personnel authorized by the director verifying the vehicle identification number, make, model, year and roadworthiness.

(c) A declaration of value form provided by the department.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-56A-465 Fleets.

WAC 308-56A-470 Issuance of certificates—
Contents.

WSR 00-04-047

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed January 27, 2000, 1:14 p.m.]

Date of Adoption: January 12, 2000.

Purpose: Add two sections to chapter 180-51 WAC, WAC 180-51-063 Certificate of mastery—High school graduation requirement—Effective date and 180-51-064 Certificate of mastery—Validity and reliability study.

Citation of Existing Rules Affected by this Order: Amending chapter 180-51 WAC.

Statutory Authority for Adoption: RCW 28A.230.090.

Adopted under notice filed as WSR 99-24-118 on December 1, 2000.

Changes Other than Editing from Proposed to Adopted Version: WAC 180-51-063, addition of subsections (2)(c), (d), (e), (f), (g), and 180-51-064, addition of subsections (2), (3), (4), and (5).

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 2, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 27, 2000

Larry Davis

Executive Director

NEW SECTION

WAC 180-51-063 Certificate of mastery—High school graduation requirement—Effective date. (1) Pursuant to RCW 28A.655.060 (3)(c):

(a) The certificate of mastery shall be a graduation requirement, but not the only requirement for graduation from high school; and

(b) The state board of education is responsible for determining when the secondary Washington assessment of student learning has been implemented and is sufficiently valid and reliable.

(2)(a) The state board of education establishes the 2007-08 school year as the first year in which graduating high school students shall be required to have attained the state certificate of mastery in order to graduate, in addition to other state and local graduation requirements.

(b) The state board of education fully recognizes that a higher standard of validity and reliability must be applied when the result of the assessment affects the ability of an individual student to receive a high school diploma. Therefore, the state board of education will continue to monitor the high school level Washington assessment of student learning. If the board finds that the assessment is lacking in this higher level of validity or reliability, or both, by the beginning of the 2004-05 school year, the state board may change the effective date of the certificate of mastery, for state graduation purposes, to a later school year.

(c) Beginning the 2007-08 school year, the certificate of mastery shall consist of the subject areas under the student learning goals for which a Washington assessment of student learning secondary assessment has been implemented and declared valid and reliable for graduation purposes. It is expected that the initial certificate of mastery will be comprised of reading, writing, communications, and mathematics.

(d) Beginning the 2009-10 school year, the certificate of mastery shall include science if a Washington assessment of student learning secondary assessment has been implemented and declared valid and reliable for this subject area.

(e) As determined by the state board of education, in consultation with the legislature and the academic achievement and accountability commission, successful completion of the Washington assessment of student learning secondary assessment in social studies may be required to achieve the certificate of mastery or may lead to an endorsement on the high school transcript.

(f) As determined by the state board of education, in consultation with the legislature and the academic achievement and accountability commission, successful completion of the Washington assessment of student learning secondary assessment in arts and health and fitness may lead to an endorsement on the high school transcript.

(g) Beginning with graduating students in 2001, attainment of the state certificate of mastery may be noted on the student's transcript pursuant to written district policy.

(3) Notwithstanding WAC 180-18-055 and 180-51-107, subsection (2) of this section shall not be waived.

(4) The certificate of mastery shall not be a graduation requirement for students who receive home-based instruction under RCW 28A.200.101(3) nor for students attending private schools under RCW 28A.195.010(6).

NEW SECTION

WAC 180-51-064 Certificate of mastery—Validity and reliability study. (1) The state board of education recognizes that a state investment in activities to verify the validity and reliability of the secondary Washington assessment of student learning for graduation purposes is critical. Therefore, the state board will work with the legislature to establish funding support for validity and reliability substantiation activities.

(2) The state board recognizes that there remain unanswered questions about the certificate of mastery. In order to facilitate the necessary dialogue to address the questions and issues, the board will establish a certificate of mastery validity and reliability advisory committee. At a minimum, the advisory committee shall include representatives from the academic achievement and accountability commission, the office of superintendent of public instruction, the public, the business community, and education stakeholder groups.

(3) The advisory committee shall examine and make recommendations to the state board of education on validity and reliability issues and conduct a review and analysis of the requirement that students obtain a certificate as a condition for high school graduation.

(4) The advisory committee shall submit to the state board a final report and recommendations not later than the board's meeting in May 2003.

(5) By the second Monday of January 2001, and no later than the second Monday of each year thereafter, the state board of education will provide to the house of representatives and senate committees on education, a progress report on the deliberations of the certificate of mastery validity and reliability advisory committee. The state board will submit any proposed policy change based on recommendations of the advisory committee to the house of representatives and senate education committees for review and comment before the change is implemented by the state board under its rule-making authority.

WSR 00-04-056

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Adult Services Administration)

[Filed January 28, 2000, 11:36 a.m.]

Date of Adoption: January 28, 2000.

Purpose: Rules for long-term care services under the COPEs (community options program entry system), MPC (Medicaid personal care), and chore personal care; residential care services program; residential care discharge allowance; Senior Citizens Services Act; respite care program; and volunteer chore program have been rewritten to clarify language, per the Governor's Executive Order 97-02 and are adopted under chapter 388-71 WAC, Social services for adults.

15-206, 388-15-207, 388-15-209, 388-15-214, 388-15-215, 388-15-219, 388-15-222, 388-15-548, 388-15-551, 388-15-552, 388-15-553, 388-15-554, 388-15-555, 388-15-560, 388-15-562, 388-15-563, 388-15-564, 388-15-566, 388-15-568, 388-15-600, 388-15-620, 388-15-630, 388-15-690, 388-15-695, 388-15-700, 388-15-705, 388-15-710, 388-15-715, 388-15-810, 388-15-830, 388-15-880, 388-15-890, 388-15-895, 388-17-010, 388-17-020, 388-17-100, 388-17-120, 388-17-160, 388-17-180, 388-17-500, and 388-17-510.

Citation of Existing Rules Affected by this Order:
Repealing WAC 388-15-145, 388-15-200, 388-15-201, 388-

Statutory Authority for Adoption:

Title of Rule	Statutory authority for adoption
388-71-0400 What is the intent of the department's home and community programs?	RCW 74.09.520, 74.08.090, 74.39A.130
388-71-0405 What are the home and community programs?	RCW 74.09.520, 74.08.090, 74.39A.130
388-71-0410 What services may I receive under HCP?	RCW 74.08.090, 74.39.010, 74.09.520
388-71-0415 What other services may I receive under the COPEs program?	RCW 74.08.090, 74.39.020
388-71-0420 What services are not covered under HCP?	RCW 74.09.520, 74.08.090, 74.39A.130
388-71-0425 Who can provide HCP services?	Chapter 175, Laws of 1999, chapters 70.126, 70.127, RCW 74.08.044
388-71-0430 Am I eligible for one of the HCP programs?	RCW 74.39.010, 74.08.090, 74.39A.110, 74.09.520
388-71-0440 Am I eligible for MPC-funded services?	RCW 74.09.520
388-71-0445 Am I eligible for Chore-funded services?	RCW 74.39A.110, 74.39A.150
388-71-0450 How do I remain eligible for services?	42 C.F.R. 441.302, RCW 74.09.520
388-71-0455 Can my services be terminated if eligibility requirements for HCP change?	RCW 74.09.510, 74.09.520
388-71-0460 Are there limitations to HCP services I can receive?	RCW 74.09.520
388-71-0465 Are there waiting lists for HCP services?	RCW 74.39.010, 74.39A.120
388-71-0470 Who pays for HCP services?	RCW 74.39A.120, 74.39.010, 74.39.020
388-71-0475 What is the maximum amount that the department pays per month for your COPEs care?	RCW 74.08.090
388-71-0480 If I am employed, can I still receive HCP services?	RCW 74.39A.140, 74.39A.150
388-71-0600 What are residential services?	RCW 74.08.44 [74.08.044]
388-71-0605 Am I eligible for residential services?	RCW 74.08.44 [74.08.044]
388-71-0610 Who pays for residential care?	RCW 74.08.44 [74.08.044]
388-71-0615 If I leave a hospital, residential facility, or nursing facility, are there resources available to help me find a place to live?	RCW 74.42.450, 74.08.090
388-71-0620 Am I eligible for a residential discharge allowance?	RCW 74.42.450, 74.08.090
388-71-1000 What is the Senior Citizens Act?	RCW 74.38.030
388-71-1005 Who administers the Senior Citizens Services Act funds?	RCW 74.38.030
388-71-1010 What services does the SCSA fund?	RCW 74.38.030
388-71-1015 How do I apply for SCSA-funded services?	RCW 74.38.030
388-71-1020 Am I eligible for SCSA-funded services?	RCW 74.38.030
388-71-1025 What income and resources are not considered when determining eligibility?	RCW 74.38.030
388-71-1030 What if I am not eligible to receive SCSA-funded services at no cost?	RCW 74.38.030
388-71-1035 What are my rights under SCSA?	RCW 74.38.030
388-71-1065 What is the purpose of the respite care program?	RCW 74.41.040
388-71-1070 What definitions apply to respite care services?	RCW 74.41.040
388-71-1075 Who is eligible to receive respite care services?	RCW 74.41.040
388-71-1080 Who may provide respite care services?	RCW 74.41.040
388-71-1085 How are respite care providers reimbursed for their services?	RCW 74.41.040
388-71-1090 Are participants required to pay for the cost of their services?	RCW 74.41.040
388-71-1095 Are respite care services always available?	RCW 74.41.040
388-71-1100 What is volunteer chore services?	RCW 74.08.090, 74.09.520, 74.39A.030, 74.39A.100
388-71-1105 Am I eligible to receive volunteer chore services?	RCW 74.08.090, 74.09.520, 74.39A.030, 74.39A.100
388-71-1110 How do I receive information on applying for volunteer chore services?	RCW 74.08.090, 74.09.520, 74.39A.030, 74.39A.100

Adopted under notice filed as WSR 99-23-080 on November 16, 1999 and the continuance filed as WSR 99-24-044 on November 24, 1999.

Changes Other than Editing from Proposed to Adopted Version: Removed provisions of subsection (5)(c), (d), (e) and (6)(c) under WAC 388-71-415. Added language regarding date eligibility begins, under WAC 388-71-430.

PERMANENT

Replaced "informal support systems" with "other resources" in WAC 388-71-460. Removed WAC 388-71-475(16); additional provisions relating to employment/eligibility under WAC 388-71-480. Restored residential care eligibility provisions to WAC 388-71-605(3). Removed exception under WAC 388-71-620(2). Restored exempt resource to WAC 388-71-1025(10). Retained original language from WAC 388-15-710 in WAC 388-71-1095. Restored original language regarding volunteer chore eligibility to WAC 388-71-1105.

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 39, Amended 0, Repealed 44.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 39, Amended 0, Repealed 44.

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 39, Amended 0, Repealed 44.

Effective Date of Rule: Thirty-one days after filing.

January 28, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 00-05 issue of the Register.

WSR 00-04-057

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 28, 2000, 1:05 p.m.]

Date of Adoption: January 27, 2000.

Purpose: Incorporation by reference of the 2000 edition of the Uniform Standards of Professional Appraisal Practice, the generally recognized national organized standards of real estate appraisal. Incorporation by reference is required because to incorporate the whole text would be unduly cumbersome and expensive.

Citation of Existing Rules Affected by this Order: Amending WAC 308-125-200.

Statutory Authority for Adoption: RCW 43.24.086.

Adopted under notice filed as WSR 00-01-021 on December 6, 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 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 27, 2000

Alan E. Rathbun

Assistant Director, BPD

AMENDATORY SECTION (Amending WSR 99-04-074, filed 2/2/99, effective 3/5/99)

WAC 308-125-200 Standards of practice. (1) The standard of practice governing real estate appraisal activities will be the ((1999)) 2000 edition of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation. A copy of the Uniform Standards of Professional Appraisal Practice is available for review and inspection at the office of the Real Estate Appraiser Unit Office, Olympia, Washington. The Uniform Standards of Professional Appraisal Practice is a copyright document. Copy of the full text may be obtained from the Appraisal Foundation at The Appraisal Foundation, P.O. Box 96734, Washington, DC 20090-6734.

(2) Expert review appraisers as defined by RCW 18.140.010(11) while performing expert reviews pursuant to chapter 18.140 RCW are exempt from the Uniform Standards of Professional Appraisal Practice, Standard 3 review provisions while performing expert reviews for the director.

WSR 00-04-058

PERMANENT RULES

PUBLIC DISCLOSURE COMMISSION

[Filed January 28, 2000, 1:31 p.m., effective March 1, 2000]

Date of Adoption: January 25, 2000.

Purpose: To implement the statutory requirement under RCW 42.17.690 to adjust the dollar amounts imposed by I-134 every two years.

Citation of Existing Rules Affected by this Order: WAC 390-05-400 Changes in dollar amounts.

Statutory Authority for Adoption: RCW 42.17.370(1).

Adopted under notice filed as WSR 00-01-140A on December 20, 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 1, Repealed 0.

Effective Date of Rule: March 1, 2000.

January 28, 2000

Vicki Rippie

Acting Executive Director

AMENDATORY SECTION (Amending WSR 98-08-069, filed 3/30/96 [3/30/98], effective 5/1/96 [5/1/98])

WAC 390-05-400 Changes in dollar amounts. Pursuant to the requirement in RCW 42.17.690 that the commission biennially revise the dollar amounts found in Initiative 134 to reflect changes in economic conditions, the following revisions are made:

Code Section	Subject Matter	Amount Enacted or Last Revised	((1998)) 2000 Revision
.020	Definition of (((")))"Independent Expenditure(((")))"	((\$550) <u>\$575</u>	(-\$575) <u>\$600</u>
.125	Reimbursement of candidate for loan to own campaign	\$3,500	((\$3,500) <u>\$3,800</u>
.180(1)	Report— Applicability of provisions to Persons who made contributions	((\$11,000) <u>\$11,500</u>	(-\$11,500) <u>\$12,000</u>
	Persons who made independent expenditures	((\$550) <u>\$575</u>	(-\$575) <u>\$600</u>
.640(1)	Contribution Limits— Candidates for state leg. office	((\$550) <u>\$575</u>	(-\$575) <u>\$600</u>
	Candidates for other state office	((\$1,100) <u>\$1,150</u>	(-\$1,150) <u>\$1,200</u>
.640(2)	Contribution Limits— State official up for recall or pol comm. supporting recall— State Legislative Office	((\$550) <u>\$575</u>	(-\$575) <u>\$600</u>
	Other State Office	((\$1,100) <u>\$1,150</u>	(-\$1,150) <u>\$1,200</u>
.640(3)	Contribution Limits— Contributions made by political parties and caucus committees State parties and caucus committees	((.55) <u>.58</u> per voter	((.58 [per voter])) <u>.60</u> per voter
	County and leg. district parties	((.28) <u>.29</u> per voter	((.29 [per voter])) <u>.30</u> per voter
	Limit for all county and leg. district parties to a candidate	((.28) <u>.29</u> per voter	((.29 [per voter])) <u>.30</u> per voter
.640(4)	Contribution Limits— Contributions made by pol. parties and caucus		

PERMANENT

Code Section	Subject Matter	Amount Enacted or Last Revised	((1998)) 2000 Revision
	committees to state official up for recall or committee supporting recall		
	State parties and caucuses	((-55)) .58 per voter	((-58 [per voter])) .60 per voter
	County and leg. district parties	((-28)) .29 per voter	((-29 [per voter])) .30 per voter
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	((-28)) .29 per voter	((-29 [per voter])) .30 per voter
.640 (6)	Limits on contributions to political parties and caucus committees		
	To caucus committee	((550) \$575	(\$575) \$600
	To political party	((2,750) \$2,875	(\$2,875) \$3,000
.740	Contribution must be made made by written instrument	\$55	(\$55) \$60

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

offices). To review the rules for compliance with the Governor's Executive Order 97-02.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-538-001, 388-538-090, and 388-538-150; and amending WAC 388-538-050, 388-538-060, 388-538-070, 388-538-080, 388-538-095, 388-538-100, 388-538-110, 388-538-120, 388-538-130, and 388-538-140.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.510 and [74.09.]522.

Other Authority: 1115 Federal Waiver, 42 U.S.C. 1396(a), (e), (p), 42 U.S.C. 1396r-6(b), 42 U.S.C. 1396u-2.

Adopted under notice filed as WSR 99-20-109 on October 6, 1999.

Changes Other than Editing from Proposed to Adopted Version:

WSR 00-04-080
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Medical Assistance Administration)
 [Filed February 1, 2000, 2:13 p.m.]

Date of Adoption: February 1, 2000.

Purpose: To clarify changes made by the Economic Services Administration/Medical Assistance Administration review of all rules that possibly relate to TANF (temporary assistance to needy families) and CSOs (community service

CHANGED FROM:

TO:

REASON:

388-538-050 Definitions

"Client' means an individual eligible for any medical program who is not enrolled with a managed care plan or PCCM provider. In..."

New

"Client' means an individual eligible for any medical program who is not enrolled with a managed care plan or primary care case manager (PCCM). In..."

Added: "Emergency medical condition" means a condition meeting the conditions in 42 USC 1396u-2 (b)(2)(C).

Spelled out the abbreviation PCCM for clarity.

This definition as specifically applied to managed care differs slightly from the MAA definition in WAC 388-500-0005 Definitions - general. Added per stakeholder request.

New

Added: "Emergency services' means services as defined in 42 USC 1396u-2 (b)(2)(B).

This definition applies specifically to managed care, which may differ from common usage. Added per stakeholder request.

PERMANENT

PERMANENT

CHANGED FROM:

"End enrollment' means an enrollee is currently enrolled in HO..."

"Health care service" or "service" means a service provided for...

"Healthy options program' or 'HO program' means medical assistance administration's managed care..."

"Managed care' means a comprehensive system of medical and health care delivery..."

"Timely' in relation to the provision of services, means an enrollee has the right to receive medically necessary health care according to timeline standards in the healthy options contract."

388-538-060(2)

"American Indian/Alaskan Native"

388-538-060 (4)(d)(iii)

"...The notice includes...and the date by which the client must respond."

388-538-065(1)

"Certain children and pregnant women who are enrolled in the BHP... MAA determines Medicaid eligibility for BHP enrollee children and pregnant women."

388-538-065(2)

"...also apply to Medicaid eligible BHP enrollees, except as..." except as..."

388-538-065 (2)(a)

"...the state agency that administers the BHP;"

388-538-065 (2)(b)

"American Indian/Native Alaskan (AI/AN) clients cannot choose fee-for-service or PCCM as described in WAC 388-538-060(2) under BHP. They must enroll with a BHP health care."

388-538-065 (2)(c)

"If a Medicaid eligible BHP enrollee does not choose a plan within ninety days, the enrollee is transferred from BHP to HO and is assigned to a plan as described in WAC 388-538-060 (4)(c)."

TO:

"End enrollment' means an enrollee is currently enrolled in Healthy Options (HO)..."

"Health care service' or 'service' means a service or item provided..."

"Healthy option program' or 'HO program' means MAA's managed care..."

"Managed care' means a pre-paid comprehensive system of medical and health care delivery..."

"Timely' in relation to the provision of services, means an enrollee has the right to receive medically necessary health care without unreasonable delay."

"American Indian/Alaska Native"

"...The notice includes...and the date by which the client must respond in order to change plan assignment."

"Certain children and pregnant women enrolled through BHP... MAA determines Medicaid eligibility for children and pregnant women who enroll through BHP."

"...also apply to Medicaid eligible clients enrolled through BHP."

"...the state agency that administers BHP;"

"American Indian/Native Alaska (AI/AN) clients cannot choose fee-for-service or PCCM under BHP as described under WAC 388-538-060(2). They must enroll plan." in a BHP health care plan."

"If a Medicaid eligible client applying for BHP does not choose a plan within ninety days, the client is transferred from BHP to HO and is assigned as described in WAC 388-538-060(4)."

REASON:

Spelled out "healthy options" as this is the first time it is used in the text.

Added "item" for clarity and per stakeholder request.

Replaced "medical assistance administration's" with MAA since MAA spelled out earlier.

Added "pre-paid" for clarity and per stakeholder request.

Added "without unreasonable delay" and deleted "according to timeline standards in the healthy options contract" per stakeholder request.

Per stakeholder request to use correct designation.

Added "in order to change plan assignment" per stakeholder request.

Deleted "who are," "in the," and "BHP enrollee" and added "through" & "who enroll through BHP" per stakeholder request.

Changed "BHP enrollees" to "clients enrolled through BHP" per stakeholder request.

Deleted "the" per stakeholder request.

Changed "Alaskan" to "Alaska" per stakeholder request. Deleted "under BHP" for clarification.

Changed wording per stakeholder request.

CHANGED FROM:

TO:

REASON:

388-538-070(4)

"MAA pays an additional monthly amount, known as an enhancement rate, to federally qualified health care centers (FQHC) and rural health clinics (RHC) for each client enrolled with plans through the FQHC or RHC. Plans may contract with FQHCs or RHCs to provide services under HO. FQHCs and RHCs receive an enhancement rate from MAA in addition to the negotiated payments they receive from the plans for services provided to enrollees. MAA pays the enhancement rate to supplement the plan payment to ensure full reimbursement of the FQHC and RHC reasonable costs."

"MAA pays an additional monthly amount, known as an enhancement rate, to federally qualified health care centers (FQHC) and rural health clinics (RHC) for each client enrolled with plans through the FQHC or RHC. Plans may contract with FQHCs or RHCs to provide services under HO. FQHCs and RHCs receive an enhancement rate from MAA in addition to the negotiated payments they receive from the plans for services provided to enrollees."

Deleted last sentence per division director request.

388-538-080(1)

"'Exemption' means the client is excused from mandatory enrollment when the client has not yet chosen or been assigned to a plan or PCCM provider."

Deleted definition of "exemption."

Deleted definition since the word is defined in the definitions section of this chapter, per stakeholder request.

388-538-080 (2)(a)(i)

"...severe medical diagnosis;"

"...severe medical diagnoses;"

Changed word from singular to plural to reflect correct policy.

388-538-080 (2)(a)(ii)

"The client's established provider is not with any available managed care plan;"

"The client's established provider is not available through any managed care plan;"

Deleted "with any" and added "through any" per stakeholder request.

388-538-080(3)

"...If the request is approved for a limited time, the client is notified of the time limitation and the process for renewing the exemption."

"...If the request is approved for a limited time, the client is notified in writing or by telephone of the time limitation, the process for renewing their exemption, and their fair hearing rights."

Added "in writing or by telephone" & "fair hearing rights" and deleted "and" per stakeholder request.

388-538-095 (1)(a)

"A client is entitled to medically necessary services. The HO contract includes the definition of medically necessary as well as utilization management requirements in the quality improvement program standards for how plans and their participating providers determine medical necessity."

"A client is entitled to timely access to medically necessary services as defined in WAC 388-500-0005."

Added "timely access" per stakeholder request. Deleted the definition of "medically necessary" and remainder of sentence per stakeholder request.

388-538-095 (1)(b)

"In addition, plans may cover services not required under the HO contract."

"In addition, plans may, at their discretion, cover services not required under the HO contract."

Added "at their discretion" per stakeholder request.

388-538-095 (3)(a)

PERMANENT

PERMANENT

CHANGED FROM:

"...to deliver the scope of services contracted with the plan."

TO:

"...to deliver the scope of services contracted with the plan, in a timely fashion, according to the requirements of the HO contract."

REASON:

Added the "in a timely fashion" phrase per stakeholder request.

388-538-095 (4)(b)(ii)

"All nonemergency services received from nonparticipating providers ..."

"All nonemergency services covered under the HO contract and received from nonparticipating providers..."

Added "covered under the HO contract and" per stakeholder request.

388-538-095(5)

"In order to be held financially responsible for noncovered services as described in subsection (4) of this section, an enrollee must have consented in writing to pay for services prior to receiving services. In order for the consent to be valid for limited English proficient enrollees, the consent must be translated or interpreted into the enrollee's primary language."

"A provider may bill an enrollee for noncovered services as described in subsection (4) of this section if the enrollee and provider sign an agreement. The provider must give the original agreement to the enrollee and file a copy in the enrollee's record."

Changed language to clarify information about the form and what needs to be on it. Moved information about limited English proficient clients to end of section in (b).

388-538-095 (5)(a)

"The written consent form must be approved by MAA and include all of the following:"

"The agreement must state all of the following:"

Changed language to clarify the agreement is not a standard MAA consent form.

388-538-095 (5)(a)(i)

"A description of the specific service the enrollee is agreeing to pay for;"

"The specific service to be provided;"

Eliminated first phrase to fit with introductory phrase in (5)(a) and reworded to reduce unnecessary verbiage.

388-538-095 (5)(a)(ii)

"A statement that the service is not covered by MAA or the plan;"

"That the service is not covered by either MAA or the plan;"

Eliminated first phrase to fit with introductory phrase in (5)(a) and added "either" per stakeholder request.

388-538-095 (5)(a)(iii)(B)

"The service is covered only when a participating provider provides it."

"The service is covered only when provided by a participating provider."

Changed language to eliminate awkward wording.

388-538-095 (5)(a)(iv)

"A statement that the enrollee chooses to receive the service;"

"The enrollee chooses to receive and pay for the service;"

Eliminated first phrase to fit with introductory phrase in (5)(a). Added "and pay for" to eliminate following sentence.

388-538-095 (5)(a)(v)

"A statement that the enrollee agrees to pay for the service; and"

Deleted

Added to sentence above.

388-538-095 (5)(a)(vi)

"A statement explaining why the enrollee is choosing to pay for the service; such as:"

388-538-095 (5)(a)(v)

"Why the enrollee is choosing to pay for the service, such as:"

Renumbered per deletion above. Eliminated first phrase to fit with introductory phrase in (5)(a).

388-538-095 (5)(a)(vi)(B)

"...rather than wait to receive services in a participating..."

"...rather than wait to receive services at no cost in a participating..."

Added "at no cost" to clarify what the enrollee is forfeiting by agreeing to pay for services.

CHANGED FROM:

TO:

REASON:

388-538-095 (5)(b)

"The written consent is void and unenforceable, and the enrollee is under no obligation to pay the provider, if the service is covered by MAA or the plan as described in subsection (1) of this section, even if the provider has not been paid for the covered service because the provider did not satisfy the payor's billing requirements."

"For limited English proficient enrollees, the agreement must be translated or interpreted into the enrollee's primary language to be valid and enforceable."

Inserted new (5)(b) and renumbered and reworded old (5)(b) as (5)(c) (below).

388-538-095 (5)(c)

New

"The agreement is void and Unenforceable, and the enrollee is under no obligation to pay the provider if the service is covered by MAA or the plan as described in subsection (1) of this section, even if the provider is not paid for the covered service ..."

Renumbered old (5)(b) as new (5)(c); changed "written consent" to "agreement" and "has not been" to "is not" for clarity.

388-538-100(1)

"A managed care enrollee may obtain emergency services, as defined in 42 USC 1396u-2(b), for emergency medical conditions, as defined in 42 USC 1396u-2(c) in any hospital emergency department."

"A managed care enrollee may obtain emergency services for emergency medical conditions in any hospital emergency department."

Deleted references to federal regulations since these terms are now defined in Definitions per stakeholder request.

388-538-100(3)

"An enrollee who requests emergency services is entitled to receive and exam to determine if the enrollee has an emergency medical condition."

"Emergency medical services for non-emergency medical conditions must be authorized by the plan for plan enrollees."

Inserted new (3) and renumbered (3) as new (4) per stakeholder request.

388-538-100(4)

New

"An enrollee who requests emergency services is entitled to an exam to determine if the enrollee has an emergency medical condition."

Renumbered old (3) as new (4) per stakeholder request to insert new (3).

388-538-110(1)

"A managed care enrollee has the right to voice a complaint or appeal a plan, PCP or provider decision."

"A managed care enrollee has the right to voice a complaint or submit an appeal of a plan, PCP or provider decision, action, or inaction. An enrollee may do this through the plan's complaint and appeal process, and through the department's fair hearing process."

Added language to clarify the enrollee's rights per stakeholder request.

388-538-110(6)

"An enrollee who appeals a plan, PCP, or provider decision is entitled to all of the following:"

"When an enrollee is not satisfied with how the plan resolves a complaint, or if the plan does not resolve a complaint in a timely fashion, the enrollee may submit an appeal to the plan. An enrollee may also appeal a plan, PCP, or provider decision or reconsideration of any action or inaction. An enrollee who..."

Added introductory sentences to clarify enrollees' rights.

PERMANENT

CHANGED FROM:

TO:

REASON:

388-538-110(7)

"The plan's medical director or designee reviews all appeals and requests for fair hearings when the issues involve medical necessity."

"An enrollee may file a fair hearing request without also filing an appeal with the plan or exhausting the plan's appeal process."

Inserted new section (7) and renumbered and reworded old section (7) as new section (8) to clarify policy.

388-538-110(8)

New

"The plan's medical director or designee reviews all fair hearings requests and any related appeals when the issues involve medical necessity."

Renumbered old section (7) as new section (8) and reworded per stakeholder request.

388-538-120(1)

"A managed care plan enrollee has the right to a timely referral for a second opinion when:"

"A managed care plan enrollee has the right to a timely referral for a second opinion upon request when:"

Added "upon request" per stakeholder request.

388-538-120(2)

"A managed care plan enrollee has a right to a second opinion from a primary or specialty care physician who is participating in the existing plan network."

"A managed care plan enrollee has the right to a second opinion from a primary or specialty care physician who is participating with the plan."

Changed "in" to "with" & deleted "existing" and "network" per stakeholder request.

388-538-130 (2)(j)

"...but is willing to enroll in the established provider's plan."

"...but is willing to enroll in the established provider's plan for the next enrollment month."

Added "for the next enrollment month" for clarity.

388-538-130 (2)(j)(iii)

"If the request to end enrollment is approved, it may be effective back to the beginning of the current month."

"If the request to end enrollment is approved, it may be effective back to the beginning of the month of request."

Deleted "current" and added "of request" to clarify the time involved.

388-538-130(3)

"If the request to end enrollment is approved for a limited time, the client is notified of the time limitation and the process for renewing the exemption."

"If the request to end enrollment is approved for a limited time, the client is notified in writing or by telephone of the process for renewing the disenrollment, and their fair hearing rights."

Added "in writing or by telephone" & "fair hearing rights" and deleted "and" per stakeholder request. Changed "exemption" to "disenrollment" to use the correct term.

388-538-130(7)

"...If MAA approves the plan's request to remove the enrollee, MAA sends a notice which includes hearing rights information at least ten days in advance of the date that enrollment will end."

"...If MAA approves the plan's request to remove the enrollee, MAA sends a notice at least ten days in advance of the effective date that enrollment will end. The notice includes the reason for MAA's approval to end enrollment and information about the client's fair hearing rights."

Reworded for clarity regarding the notice.

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 10, Repealed 3.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 10, Repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

PERMANENT

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 10, Repealed 3.

Effective Date of Rule: Thirty-one days after filing.

February 1, 2000

Marie Myerchin-Redifer, Manager
Rules and Policies Assistance Unit

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 00-05 issue of the Register.

Effective Date of Rule: Thirty-one days after filing.

January 31, 2000

John L. Bley
Director

WSR 00-04-094
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
(Securities Division)

[Filed February 2, 2000, 10:33 a.m.]

Date of Adoption: January 31, 2000.

Purpose: Amend WAC 460-44A-504 to increase the aggregate offering amount to \$1,000,000 and other minor revisions. Minor amendments to WAC 460-44A-500 clarify the relationship between this chapter and the preemption provisions of section 18 (b)(4)(C) of the federal Securities Act of 1933.

Citation of Existing Rules Affected by this Order: Amending WAC 460-44A-500 and 460-44A-504.

Statutory Authority for Adoption: RCW 21.20.450, 21.20.320(9).

Adopted under notice filed as WSR 98-24-059 [99-24-059] on November 29, 1999.

Changes Other than Editing from Proposed to Adopted Version: In response to public comment, the suggested list of disclosure items originally proposed as part of WAC 460-44A-504(6) has been deleted.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Pursuant to RCW 21.20.450, the director of the Department of Financial Institutions finds that this action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW.

apply if the issuer elects to rely solely on Regulation D for

AMENDATORY SECTION (Amending WSR 98-11-014, filed 5/12/98, effective 6/12/98)

WAC 460-44A-500 Preliminary notes. (1) The rules of WAC 460-44A-501 through 460-44A-508 relate to transactions exempted (~~(or preempted)~~) from the registration requirements of the Federal Securities Act of 1933 (~~and~~) that are also exempted or preempted from RCW 21.20.140. WAC 460-44A-504 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 504 or Rule 147. WAC 460-44A-505 is an exemption from registration for offerings exempted under Securities and Exchange Commission Rule 505. WAC 460-44A-506 establishes certain conditions for offerings exempted under Securities and Exchange Commission Rule 506. Unless expressly provided otherwise, such transactions are not exempt from anti-fraud, civil liability, or other provisions of the federal and state securities laws. Issuers are reminded of their obligation to provide such further material information, if any, as may be necessary to make the information required under these rules, in light of the circumstances under which it is furnished, not misleading.

(2) Attempted compliance with the exemption of WAC 460-44A-504, 460-44A-505, or 460-44A-506 does not act as an exclusive election; the issuer can also claim the availability of any other applicable exemption.

(3) These rules are available only to the issuer of the securities and not to any affiliate of that issuer or to any other person for resale of the issuer's securities. The rules provide an exemption only for the transactions in which the securities are offered or sold by the issuer, not for the securities themselves.

(4) In any proceeding involving the rules in WAC 460-44A-501 through 460-44A-508, the burden of proving the exemption, an exception from a definition or condition, or preemption, is upon the person claiming it.

(5) For offerings commenced but not completed prior to the amendment of WAC 460-44A-501 through 460-44A-508, issuers may opt to follow the rules in effect at the date of filing notice of the offering.

(6) Securities offered and sold outside the United States in accordance with Securities and Exchange Commission Regulation S need not be registered under chapter 21.20 RCW. Regulation S may be relied upon for such offers and sales even if coincident offers and sales are made in accordance with Regulation D and WAC 460-44A-501 through 460-44A-508 inside the United States. Thus, for example, persons who are offered and sold securities in accordance with Regulation S would not be counted in the calculation of the number of purchasers under Regulation D and WAC 460-44A-501 through 460-44A-508. Similarly proceeds from such sales would not be included in the aggregate offering price. The provisions of this subsection, however, do not offers or sales to persons made outside the United States.

AMENDATORY SECTION (Amending WSR 98-11-014, filed 5/12/98, effective 6/12/98)

WAC 460-44A-504 Exemption for limited offers and sales of securities not exceeding ~~(\$500,000)~~ \$1,000,000 to not more than twenty purchasers. (1) Exemption. Offers and sales of securities by an issuer in compliance with the Securities Act of 1933, Regulation D, Rules 230.501 through 230.504 and 230.508 as made effective in Release No. 33-6389, and as amended in Release Nos. 33-6437, 33-6663, 33-6758, 33-6825, 33-6863, 33-6949, ~~(and) 33-6996, 33-7300, and 33-7644,~~ or in compliance with the Securities Act of 1933, Rule 230.147 as made effective in Release No. 33-5450, that satisfy the conditions in subsections (2) and (3) of this section shall be exempt under RCW 21.20.320(9).

(2) General conditions to be met. To qualify for exemption under this section, offers and sales must satisfy all the terms and conditions of WAC 460-44A-501 through 460-44A-503 and 460-44A-508.

(3) Specific conditions to be met.

(a) Limitation on aggregate offering price. The aggregate offering price for an offering of securities under this section, as defined in WAC 460-44A-501(3), shall not exceed ~~(\$500,000)~~ \$1,000,000, within or without this state, less the aggregate offering price for all securities sold within the twelve months before the start of and during the offering of securities under this section in reliance on any exemption under RCW 21.20.320(9) or sections 3(a) (11) or 3(b) of the Securities Act of 1933 or in violation of RCW 21.20.140 or section 5(a) of the Securities Act of 1933.

(b) No commissions. No commission, fee, or other remuneration shall be paid or given, directly or indirectly, to any person for soliciting any prospective purchaser in the state of Washington.

(c) Limitation on number of purchasers. There are no more than or the issuer reasonably believes that there are no more than twenty purchasers of securities in this state from the issuer in any offering in reliance on this section.

(d) In all sales to nonaccredited investors in this state under this section the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that, as to each purchaser, one of the following conditions, (i) or (ii) of this subsection, is satisfied:

(i) The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situation and needs. For the purpose of this condition only, it may be presumed that if the investment does not exceed ten percent of the purchaser's net worth, it is suitable. This presumption is rebuttable; or

(ii) The purchaser either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is or they are capable of evaluating the merits and risks of the prospective investment.

(e) Disqualifications. No exemption under this section shall be available for the securities of any issuer if any of the parties described in the Securities Act of 1933, Regulation A, Rule 230.262 is disqualified for any of the reasons listed in

WAC 460-44A-505 (2)(d) unless inapplicable or waived as set forth in WAC 460-44A-505 (2)(d)(vi) and (vii).

(f) Notice filing. The issuer shall file a notice, with a consent to service of process, and pay a filing fee as set forth in WAC 460-44A-503.

(g) Advice about the limitations on resale.

The issuer, at a reasonable time prior to the sale of securities, shall advise each purchaser of the limitations on resale in the manner contained in WAC 460-44A-502 (4)(b).

(4) Transactions which are exempt under this section may not be combined with offers and sales exempt under any other rule or section of the Securities Act of Washington, however, nothing in this limitation shall act as an election. Should for any reason the offer and sale fail to comply with all of the conditions for the exemption of this section, the issuer may claim the availability of any other applicable exemption.

~~(Note 1:)~~ (5) WAC 460-44A-504 is not the exclusive method by which issuers may make offerings under Securities and Exchange Commission Rules 504 and 147. For example, offers and sales of an issuer in compliance with Securities and Exchange Commission Rule 504 or Rule 147 may also be registered by qualification under chapter 21.20 RCW. An issuer that qualifies may elect to register an offering pursuant to the ~~(Uniform Limited)~~ Small Company Offering Registration (SCOR) program as set out in chapter 460-17A WAC. ~~(An issuer may also elect to claim the corporate limited offering exemption as set out in chapter 460-46A WAC.~~

~~Note 2:)~~ (6) Issuers are reminded that nothing in these rules alters their obligation under RCW 21.20.010. RCW 21.20.010(2) renders it unlawful "to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading..." In addition, issuers must otherwise comply with the anti-fraud provisions of the federal and state securities laws. No format for disclosure is prescribed. However, issuers may wish to consider the question and answer disclosure format of the SCOR Form of chapter 460-17A WAC ~~(-or the corporate limited offering exemption of chapter 460-46A WAC,)~~ in determining the disclosure they make. If ~~(either form)~~ the SCOR form is used, the issuer should indicate that the ~~(disclosure form)~~ Form is being used for an exempt offering under this section rather than in an offering registered under ~~(the chapters under which the form was adopted)~~ chapter 21.20.RCW and chapter 460-17A WAC..

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

Reviser's note: The typographical 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.

PERMANENT

WSR 00-04-095
PERMANENT RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

(Securities Division)

[Filed February 2, 2000, 10:35 a.m.]

Date of Adoption: January 31, 2000.

Purpose: Repeal chapter 460-46A WAC, Corporate limited offering exemption (CLOE). The Securities Division has received very few filings pursuant to this chapter since the 1988 adoption of the small company offering registration (SCOR) program of chapter 460-17A WAC. SCOR is superior in many ways to CLOE. The permitted offering amount is higher, there are no limitations on the number of investors, and the SCOR Form is a universal form accepted in approximately 47 states. Recent revisions to the SCOR Form incorporate several features from the CLOE Form that further increase the attractiveness and usefulness of the SCOR Form.

Citation of Existing Rules Affected by this Order:
 Repealing chapter 460-46A WAC.

Statutory Authority for Adoption: RCW 21.20.450, 21.20.320(9).

Adopted under preproposal statement of inquiry filed as WSR 99-24-058 on November 29, 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 24.

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 24.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: No rule may be made unless the director of the Department of Financial Institutions finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of chapter 21.20 RCW.

Effective Date of Rule: Thirty-one days after filing.

January 31, 2000

John L. Bley

Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

Chapter 460-46A WAC	Corporate limited offering exemption.
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WSR 00-04-010
EMERGENCY RULES
SECRETARY OF STATE
 [Filed January 21, 2000, 9:03 a.m.]

Date of Adoption: January 21, 2000.

Purpose: Chapter 434-257 WAC is changed to comply with state law changes as a result of SHB 1291.

Citation of Existing Rules Affected by this Order: Repealing WAC 434-257-050, 434-257-080, and 434-257-120; and amending WAC 434-257-010, 434-257-020, 434-257-030, 434-257-070, 434-257-090, 434-257-100, 434-257-130, and 434-257-150.

Statutory Authority for Adoption: RCW 29.57.170.

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: With a due date of April 1, 2000, these rules need to be adopted early enough for counties to survey their polling places and produce a report. These rules will be adopted permanently at a later date.

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 8, Repealed 3.

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 8, Repealed 3; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 21, 2000

Donald F. Whiting

Assistant Secretary of State

Chapter 434-257 WAC

REGULATIONS ON ACCESSIBILITY OF POLLING PLACES ((AND PERMANENT VOTER REGISTRATION FACILITIES TO ELDERLY VOTERS OR DISABLED VOTERS))

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-010 Purpose. These regulations are adopted pursuant to RCW 29.57.170 to implement the provisions of chapter 29.57 RCW ((and the requirements of Public

Law 98-435)) regarding the accessibility of polling places ((and voter registration facilities)) for ((federal)) all elections.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-020 Definitions. As used in these regulations:

(1) "Accessible" means the combination of factors which create an environment free of barriers to the mobility or functioning of voters ((who are elderly or disabled)). The environment consists of the routes of travel to and through buildings or facilities used for the purpose of voting ((or voter registration)).

(2) "Alternative polling place" means an accessible location which could be used as a polling place in the event that the existing site is inaccessible and which is reasonably convenient to assigned voters as determined by the county auditor.

(3) "County auditor" means the county auditor or county election official.

(4) "Election" means any primary, special or general election ((for any federal office)).

(5) ((("Federal election" means a primary, special or general election for the office of president, vice president, United States senator or United States representative.

(6) ~~"Permanent voter registration facilities" means any offices or other locations specifically required to provide voter registration services under chapter 29.07 RCW or the location of any deputy registrar appointed by the county auditor to serve for an indefinite period of time.~~

(7)) "State of emergency" means any condition which, in the opinion of the county auditor and secretary of state, would interfere with the safe and efficient conduct of an election.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-030 Standards for accessible polling places ((and permanent voter registration facilities)). A polling place is accessible if ((each of)) the ((following)) standards ((is)) of the state building code council are met or exceeded. If ((each of)) the ((following)) standards cannot be met, alternative accommodations may be permitted under RCW 29.57.090. ((A permanent voter registration facility is accessible if each of the following standards is met or exceeded, except in subsections 3 and 4 where the standard specifically applies to a polling place:

(1) **Parking.** Where off-street parking is provided, there is at least one existing or temporary parking place at a polling place designated for use on the day of the election by voters [on the day of the primary or election, for each nine hundred persons registered to vote at that polling place] whose vehicle displays a special card, decal or license plate as required by RCW 64.61.381 [46.16.381]. A polling place, where off-street parking is not available, is considered accessible only if there is no other equally accessible alternative polling place where off-street parking is available which would be suitable for a precinct or group of precincts. Where off-street parking

is provided, there is at least one existing parking place at a permanent voter registration facility designated for use by persons who are elderly or disabled. The designated parking place(s) is in close proximity to the accessible entrance to the building containing the polling place or permanent voter registration facility and is no less than twelve feet six inches wide. The area surrounding the [designated] parking place(s) [for voters with disabilities] is a firm, stable surface and generally level, with a maximum slope in any direction of one inch in fifty inches. A slope of one inch in thirty inches in the area surrounding the designated parking place(s) is considered accessible only if all other potential polling places within [the] [a] precinct [or group of precincts] are not and cannot be made to meet this standard.

(2) **Accessible route of travel.** A continuous, unobstructed pathway exists from the accessible parking place(s), where provided, to and through the accessible building entrance and to the polling place or permanent voter registration facility. The accessible route of travel is a minimum of thirty-six inches of clear width and seventy-nine inches in clear height unless otherwise specified in these standards.

(a) **Walkways and ramps.** Walkways or ramps which occur within the accessible route of travel have a minimum clear width of forty-four inches, no abrupt edge over one-half inch in height, no grating with openings larger than one-half inch, and a maximum slope in the direction of travel less than one inch in twenty inches with a cross slope no more than one inch in fifty inches. The width of walkways and ramps may be thirty-six inches only in instances where it is impractical or unreasonable to provide forty-four inches. If the slope of the accessible route of travel is between one inch in twenty inches and one inch in twelve inches, a level five foot by five foot landing is provided for each thirty inches of rise. Ramps and curb cuts have a slope no more than one inch in twelve inches. Ramps one inch in twenty or steeper have handrails. Curb cuts have a clear width of thirty-six inches and side slopes no more than one inch in six inches.

(b) **Entrances.** The entrance to the building containing the polling place or permanent voter registration facility is at least thirty-two inches of clear width with a threshold no more than one-half inch in height. The entrance to the building containing a polling place with a threshold of one and one-half inches in height is considered accessible if there is no other equally accessible alternative polling place where the entrance with a threshold of one-half inch in height is available which would be suitable for a precinct or a group of precincts. There is a level, firm, stable and slip resistant surface at least fifty inches wide, at least eighteen inches of which is directly adjacent to the latch side of the door, and five feet deep on both the inside and outside of the door. If the entrance to the building containing the polling place remains in an open position during polling hours, the requirement for the eighteen inches adjacent to the latch side of the door does not apply. If the door is power operated, it is equipped with a time delay.

(c) **Interior corridors.** If the entrance to the building containing the polling place or permanent voter registration facility does not open directly to the polling place or permanent voter registration facility, there is an unobstructed route

of travel from the entrance of the building to the entrance of the polling place or permanent voter registration facility which is at least forty-four inches wide. If there is an elevator on the only accessible route of travel, it is in close proximity to the entrance to the building, it has a minimum interior depth of forty-eight inches, the doors have at least thirty-two inches clear width, and the floor has a firm, stable surface.

(3) **Polling place.** There is seating and adequate, unobstructed space for reasonable movement of voters who are elderly or disabled within the polling place.

(4) **Voting equipment.** In polling places in which ballots are cast on voting machines or voting devices, there is at least one machine or device which is no higher than thirty inches with at least twenty-seven inches minimum height knee clearance under the machine, device or table for a seated person. Voters may also be provided with paper ballots and a voting booth with a horizontal surface which is no higher than thirty inches with at least twenty-seven inches minimum height knee clearance under the booth or table.

(5) **Illumination.** There is sufficient illumination at all points along the accessible route of travel and within the polling place or permanent voter registration facility.

(6) **Signs.** There are signs with large, high contrast lettering which identify any available accessible parking spaces and the accessible route of travel to the polling place or permanent voter registration facility if it is different from the primary route of travel to the polling place or permanent voter registration facility. Signs shall prominently display the international symbol of access as provided by RCW 70.92.120.)) The following survey form may be used to determine if a polling place is accessible and meets or exceeds the standards of the state building code council.

**CATEGORY I:
PARKING**

	YES	NO	N/A
1. Are there off-street parking spaces either permanently or temporarily designated for the people with disabilities?			
2. With regard to off-street parking:			
a. Are such parking spaces at least 96 inches wide with a 60 inch aisle? (One van accessible space 96 inches width with 96 inch aisle.)			
b. Are such parking spaces on level ground (with a slope no greater than a rise of 1 inch in 48 inches)?			
c. Is the parking area firm, stable, smooth and slip resistant?			
d. Are the parking spaces within the shortest possible accessible route of travel?			
e. Is there a curb-cut to connect these parking spaces to an accessible walk or to the building entrance?			
f. Are these parking spaces designated by post-mounted signs bearing the symbol of accessibility?			
3. Is there a relatively level passenger drop-off zone at least 8 feet wide with a curb-cut connecting it to an accessible walk or to the building entrance?			

**CATEGORY II:
WALKWAYS OR PATHWAYS TO THE BUILDING**

	YES	NO	N/A
1. Is the walkway or pathway to the building paved (concrete, asphalt, macadam, etc.)?			
2. Is the walkway or pathway to the building at least 44 inches wide?			
3. Are all curbs along the pathway to the building cut or ramped with at least 44 inch clear width and with slopes of no more than a 1 inch rise in 20 inches?			
4. Are all stairs or steps along the walkway or pathway to the building either ramped (with a slope of no more than a 1 inch rise in 12 feet) or else provided with a suitable alternative means of access?			
5. Do stair steps along the walkway or pathway to the building have nonslip surfaces and handrails?			
6. Is the walkway or pathway to the building entrance:			
a. Free of protrusions (such as fire hydrants, tree trunks, or other obstacles) which narrow the passage to less than 44 inches?			
b. Free of any abrupt edges or breaks in the surface where the difference is over ½ inch in height (such as where it crosses a driveway, parking lot, or another walkway, etc.)?			

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**CATEGORY II:
WALKWAYS OR PATHWAYS TO THE BUILDING (cont'd)**

	YES	NO	N/A
c. Free of any overhanging objects (such as tree branches, signs, etc.) which hang lower than 79 inches?			
d. Free of any slopes or inclines greater than a 1 inch rise to 20 inches?			
e. Free of any grating with openings of over ½ inch wide?			
7. Are walkways always well lighted?			
8. Are provisions made to ensure that walkways are free of such hazards as ice, snow, leaves, or other debris on the day of election?			
9. Are there signs which identify the accessible route of travel if that route is different from the primary route of travel to the building?			

**CATEGORY III:
RAMPS AND ELEVATORS ENTERING OR INSIDE THE BUILDING**

	YES	NO	N/A
1. Are building stairs or steps which are over 30 inches high (either at the entrance or between the entrance and the voting area) provided either with a ramp, with an elevator, or with an alternative means of unassisted passage (such as a chair lift or an alternative route of travel)?			
2. With regard to ramps:			
a. Do all ramps have a slope no greater than a rise of 1 inch high for 20 inches of ramp?			
b. Are ramps provided with non-slip surfaces?			
c. For any ramp rising more than 6 inches or longer than 72 inches, is a hand rail provided? (Note: Any ramp with a slope of 1:20 does not need rails.)			
d. Are handrails 34 inches to 38 inches above the ramp surface?			
e. Can handrails be gripped (should be approx. 1 ½ inch from wall, but are not more than 2 inches)?			
f. Are ramps and landing areas with drop-offs provided with a least a 2 inch curb at the side to prevent slipping off the ramps?			
g. If there is a door at the top of the ramp, is there a level space of at least 5 feet by 5 feet where a wheelchair can rest while the door is opened?			

EMERGENCY

**CATEGORY III:
RAMPS AND ELEVATORS ENTERING OR INSIDE THE BUILDING (Con't)**

	YES	NO	N/A
3. With regard to elevators (if elevators are the only accessible route):			
a. Is the elevator cab at least 54 inches by 68 inches wide?			
b. Do elevator doors provide at least 32 inches clear width?			
c. Are elevator controls less than 54 inches high (i.e., can a person in a chair operate the controls)?			
d. Are control panels marked with raised lettering?			
e. Is the elevator in close proximity to the entrance of the building?			

**CATEGORY IV:
OTHER ARCHITECTURAL FEATURES**

	YES	NO	N/A
1. With regard to doors along the route of travel:			
a. Do all doors have an opening which clears at least 32 inches wide?			
b. Are all door thresholds less than 1/2 inch high?			
c. Are all doors equipped with arch or lever-type handles, push plates, or automatic openers (so that twisting a doorknob is not required)?			
d. Where automatic doors are used, does the door remain open at least 3 seconds?			
e. Are glass doors marked with safety seals?			
2. With regard to stairs along the route:			
a. Do stairs have a nonslip surface?			
b. Do stairs have handrails 34 to 38 inches above step level?			
c. Can handrails be gripped?			
d. Do all steps have risers (the little vertical walls at the back of each step)?			
e. Do all steps have tread areas at least 11 inches deep?			
f. Are all steps less than 7 inches in height?			

EMERGENCY

**CATEGORY IV:
OTHER ARCHITECTURAL FEATURES (cont'd)**

	YES	NO	N/A
g. Are stairs well lit?			
h. Are stairs free of obstacles?			
3. With regard to corridors along the route:			
a. Is the corridor at least 44 inches wide?			
b. Is the corridor free of obstacles or protrusions (such as boxes, water fountains, etc.) which extend more than 4 inches from the wall and higher than 17 inches? If so put a box or planter under obstacle so a person with a visual impairment can identify it with a cane.			
c. Is there sufficient lighting at all points along the route?			
d. Does the corridor have a non-slip surface?			
e. Are all rugs and mats securely fastened? If not try to remove them.			

**CATEGORY V:
FEATURES WITHIN THE VOTING AREA**

	YES	NO	N/A
1. Are instructions for voting printed in 12 point or larger type in simple language, and plainly displayed? Is Braille or larger print available upon request?			
2. Is there sufficient unobstructed space for the reasonable movement of voters in wheelchairs that still provides privacy?			
3. Can all necessary parts of the voting equipment be reached by a person seated in a chair or, at least, is an alternative means of casting a ballot provided?			
4. Are magnifying devices available for those who request them?			
5. Is there adequate lighting in the voting area?			
6. Is seating available for elderly or handicapped voters awaiting their turn to vote?			

EMERGENCY

SUMMARY OF ACCESSIBILITY BY CATEGORIES

Please review the responses within each category on the previous pages and indicate below whether each category is:

- **INACCESSIBLE** (If there is a "NO" response in *any* unshaded box in the category.)
- **ACCESSIBLE BUT INCONVENIENT** (If all "NO" responses in the category are only in *shaded* boxes and all the responses in the *unshaded* boxes are either "YES" or "N/A".)
- **FULLY ACCESSIBLE** (If *all* responses in the category are either "YES" or "N/A".)

Category	Inaccessible	Accessible But Inconvenient	Fully Accessible
I. Parking			
II. Walkways or pathways to building			
III. Ramps and elevators entering or inside of the building			
IV. Other architectural features			
V. Voting area			
VI. Other			

OVERALL DETERMINATION OF POLLING PLACE ACCESSIBILITY

(mark one box only)

If one or more of the categories above is marked "INACCESSIBLE," then the polling place isINACCESSIBLE

If no category is marked "INACCESSIBLE," but one or more is marked "ACCESSIBLE BUT INCONVENIENT," then the polling place isACCESSIBLE BUT INCONVENIENT

If *all* categories above are marked "FULLY ACCESSIBLE," then the polling place isFULLY ACCESSIBLE

DISPOSITION OF INACCESSIBLE POLLING PLACE

If the polling place is INACCESSIBLE:

	Yes	No
a. Has an alternative accessible facility been sought?	<input type="checkbox"/>	<input type="checkbox"/>
b. Are permanent or temporary alterations planned to render the polling place accessible in the coming elections?	<input type="checkbox"/>	<input type="checkbox"/>

EMERGENCY

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-070 Report of precincts and polling places. (1) No later than April 1 of each even-numbered year, each county auditor shall ~~((report))~~ submit to the secretary of state, ~~((on a form prescribed and provided by the secretary of state;))~~ a ~~((hist))~~ report showing the number of ((all)) precincts and assigned polling places within that county. This report shall specify those polling places which are inaccessible, ~~((a summary of the efforts to locate alternative polling places and any measures taken to temporarily modify existing inaccessible polling places))~~ and what efforts have been made to locate alternative polling places or to make the existing facilities temporarily accessible.

(2) ~~((In 1986, the secretary of state may, on the request of a county auditor, extend the deadline of this report to no later than July 1.~~

(3) ~~No later than thirty days before the next election in an even-numbered year, a county auditor shall notify the secretary of state of any changes in polling place locations. No changes in polling place locations may be made after that time except where it has been determined that a state of emergency exists.)~~ If a county shows all polling places as accessible after two consecutive report periods, no further reports need be submitted unless the secretary of state specifically reinstates the requirement for that county. Notice of reinstatement must be in writing and delivered at least sixty days before the reporting date.

(3) The secretary of state shall review and keep on file the reports of polling places submitted by each county auditor.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-090 Accessible polling places—Exceptions. An inaccessible polling place shall not be used in ~~((federal))~~ any election~~((s))~~ unless the following conditions have been met:

(1) ~~((The secretary of state has reviewed and verified the inaccessible polling place, that))~~ The county auditor has made a reasonable effort ((has been made)) to locate an alternative polling place and that measures to temporarily modify the existing polling place are not feasible, and

(2) The registered voters assigned to such an inaccessible polling place have been notified as required, or

(3) ~~((It))~~ The secretary of state has ((been)) determined that a state of emergency exists.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-100 Procedures for inaccessible polling places. (1) No later than thirty days before ~~((a special))~~ an election ~~((for a federal office or a primary in each even-numbered year)),~~ the county auditor shall mail a notice to each registered voter assigned to an inaccessible polling place which has been authorized for use under these rules and shall contain the following information:

(a) The polling place for that precinct is inaccessible, for the election or elections indicated in the notice, according to the accessibility standards established for voters ~~((who are elderly and disabled))~~. The extent and nature of inaccessibility shall be specified.

(b) No later than twenty days before the election or elections indicated in the notice, voters ~~((who are elderly or disabled))~~ may request to be assigned to an alternative polling place as listed in the notice, or may request to vote by absentee ballot.

(c) An absentee ballot request form or instructions for requesting an absentee ballot for the specific election or elections indicated in the notice.

(2) Subsequent to the transmittal of a notice under (1) of this section and no later than thirty days before the next election, the county auditor shall also notify any person who registers to vote and is assigned to a precinct for which the polling place is inaccessible.

(3) The county auditor shall make the following accommodations in voting procedures necessary to allow the use of alternative polling places by voters ~~((who are elderly and disabled))~~:

(a) The county auditor shall assemble election materials for voters who request to vote at an alternative polling place. The following materials shall be separated according to the precinct in which the voters are registered and placed into an envelope which clearly identifies that precinct:

(i) A poll book or precinct list which contains the names of only those voters from that precinct assigned to the alternative polling place;

(ii) A ballot for each voter from the precinct in which that voter is registered;

(iii) An envelope for voted ballots which is clearly marked "Ballots for Precinct from Alternative Polling Place ~~((for Elderly and Disabled Voters))~~";

(iv) Instructions for the precinct election officers.

(b) The procedures for voting and ballot tabulation for all ballots cast by a voter ~~((who is elderly or disabled))~~ at an alternative polling place shall be as follows:

(i) The voter shall be given a ballot from the precinct in which that voter is registered and contains all the issues and candidates for which that voter is legally qualified to vote. For lever machine precincts, the voter shall be provided with an appropriate paper ballot.

(ii) After the voter has cast his or her ballot, the ballot shall be placed in a separate ballot box or an envelope designated for ballots cast in an alternative polling place.

(iii) Following the close of the polls, ballots shall be transmitted in the designated envelopes to the county auditor's office. Within each county, all ballots cast at alternative polling places shall be canvassed and reported by legislative district separately from absentee or question ballots.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-130 Voting ~~((and registration))~~ instructions. Each county auditor shall conspicuously display voting instructions, printed in at least 16-point bold type, at each polling place on the day of the election. ~~((Each county~~

~~auditor shall also conspicuously display registration instructions, printed in at least 16-point bold type, at each permanent voter registration facility.))~~

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-257-150 Notice of accessibility. Each county auditor shall include a list of polling places, indicating those polling places which are accessible according to the standards for voters (~~who are elderly or disabled~~), in the notice of election published under RCW 29.27.030 and 29.27.080.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 434-257-050 Assistance from persons with disabilities.
- WAC 434-257-080 Examination of inaccessible polling places.
- WAC 434-257-120 Accessible permanent voter registration facilities.

**WSR 00-04-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-10—Filed January 21, 2000, 1:45 p.m.]

Date of Adoption: January 20, 1999 [2000].

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300S; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea urchins exist in the areas described. A maximum daily landing limit is needed to prevent overharvest of the non-Indian share in Griffin Bay. 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 scheduled sea urchin openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 20, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-07300T Sea urchins Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: The Griffin Bay Special Management Area is open only on January 24, 2000. The maximum daily landing for a vessel on January 24, 2000 is 1,800 pounds of red sea urchins. It is unlawful to harvest red sea urchins smaller than 4.0 inches or larger than 5.5 inches (size in diameter exclusive of the spines).

(2) Green sea urchins: Sea Urchin Districts 3 and 4 are open only on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays each week until further notice. The minimum size for green sea urchins is 2.25 inches in diameter exclusive of the spines.

(3) Only one diver from each harvesting vessel is allowed in the water at any one time during the sea urchin harvest operation or when commercial quantities of sea urchins are aboard, except that two divers may be in the water if the vessel has been designated on two sea urchin dive fishery licenses.

(4) 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 Saturdays and Sundays of each week.

(5) Griffin Bay Special Management Area: 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.

EMERGENCY

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07300S Sea urchins. (00-06)

**WSR 00-04-014
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-09—Filed January 21, 2000, 1:48 p.m.]

Date of Adoption: January 21, 2000.

Purpose: Declare an emergency and allow for custody of destruction of dogs harassing deer or elk.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-315.

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: Recent heavy snowfall has driven elk and deer down into lower elevations near feeding stations and/or elk fences, particularly within the Oak Creek Wildlife Area. A persistent pack of dogs has been observed harassing vulnerable deer and elk in the Oak Creek Wildlife Area and vicinity. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 21, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 232-12-31500G Declaration of emergency for custody or destruction of dogs harassing deer or elk.

Effective immediately until further notice an emergency is declared in the following Washington State County and it is lawful for fish and wildlife officers to take into custody or destroy, if necessary, any dog that is pursuing, harassing, attacking or killing deer or elk:

(1) Yakima County

**WSR 00-04-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-11—Filed January 21, 2000, 4:34 p.m.]

Date of Adoption: January 21, 1999 [2000].

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-52-069.

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 for transition from the Puget Sound shrimp fishery from emerging commercial fishery to limited entry fishery. Prohibits issuance of a shrimp trawl license for scallops. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 21, 2000

J. P. Koenings

Director

by Larry Peck

NEW SECTION

WAC 220-52-06900A Scallop fishery—Puget Sound. Notwithstanding the provisions of WAC 220-52-069, effective immediately until further notice a foodfish trawl Puget Sound License is the license required to operate trawl gear to harvest scallops in Puget Sound.

WSR 00-04-026
EMERGENCY RULES
DEPARTMENT OF REVENUE

[Filed January 24, 2000, 3:33 p.m.]

Date of Adoption: January 24, 2000.

Purpose: WAC 458-20-135 explains the tax-reporting responsibilities of extractors. WAC 458-20-136 explains the tax-reporting responsibilities of manufacturers and processors for hire. WAC 458-20-13601 explains the application of the retail sales and use tax exemptions provided by RCW 82.08.02565 and 82.12.02565 for certain machinery and equipment used by manufacturers and processors for hire.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-135 Extracting natural products and 458-20-136 Manufacturing, processing for hire, fabricating.

Statutory Authority for Adoption: RCW 82.32.300.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules were previously adopted on an emergency basis on May 28, (WSR 99-12-077) and September 23, 1999 (WSR 99-20-003). There have been no substantive changes to the rules being adopted with this filing. This third adoption of these same rules is necessary to the implementation of the manufacturing machinery and equipment sales and use tax exemption, as amended by chapter 211, Laws of 1999. Some of the legislative changes, which provided clarification of the exemption, were retroactive to 1995. The department is engaged in the rule-making process for adopting revised Rules 135 and 136, as well as a new Rule 13601. A CR-102 public hearing is scheduled for March 8th. Adoption of these rules will continue to provide immediate information to taxpayers, tax practitioners, and department staff to use in determining the taxability of extractors, manufacturers, and processors for hire, and the application of the tax exemption available to specific machinery and equipment.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 24, 2000
 Claire Hesselholt
 Rules Manager
 Legislation and Policy Division

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 00-05 issue of the Register.

WSR 00-04-041
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 00-12—Filed January 26, 2000, 1:40 p.m.]

Date of Adoption: January 25, 1999 [2000].

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000Z; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules were adopted by the Pacific Fisheries Management Council, and provide for harvest of available stocks of bottom fish, while reserving brood stock for future fisheries. The rules are incorporated by reference because of undue length, and problems in publishing such rules in the Washington state register. There is insufficient time to promulgate permanent rules and to provide for a fishery.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 25, 2000
 J. P. Koenings
 Director
 by Larry Peck

EMERGENCY

NEW SECTION

WAC 220-44-05000A Coastal bottom fish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice:

(1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port bottom fish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes established by the Pacific Fisheries Management Council and published in the Federal Register, Volume 65, No. 2, beginning on page 221, published January 4, 2000. Therefore, persons must consult the federal regulations, which incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at (360) 902-2930.

(2) At the time of landing of coastal bottom fish into Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket in the space reserved for dealer's use all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000Z

Coastal bottomfish catch limits. (99-167)

WSR 00-04-071**EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-13—Filed January 31, 2000, 2:27 p.m., effective February 1, 2000, 12 noon]

Date of Adoption: January 28, 1999 [2000].

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05100R; and amending WAC 220-32-051.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Sets tribal winter season. Impacts to ESA - listed stocks in the tribal fishery through February "do not constitute an irreversible or irretrievable commitment of resources, in compliance with section 7(d)" of the Endangered Species Act (Stelle letter to Stan Speaks, January 26, 2000). The National Marine Fisheries Service estimates that the biological opinion will be done by February 29, 2000, and will address fisheries beginning March 1, 2000. Rule is consistent with action of the Columbia River Compact on January 27, 2000. Conforms state rules with tribal rules. There is insufficient time to promulgate permanent regulations.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: February 1, 2000, 12 noon.

January 28, 2000

J. P. Koenings

Director

by Larry Peck

EMERGENCY

NEW SECTION

WAC 220-32-05100R Columbia River salmon seasons above Bonneville Dam. Notwithstanding the provisions of WAC 220-32-050, WAC 220-32-051, WAC 220-32-052, WAC 220-32-058, effective immediately until further notice, it is unlawful for a person to take or possess salmon, shad, or sturgeon taken for commercial purposes in Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except those individuals possessing treaty fishing rights under the Yakima, Warm Springs, Umatilla, and Nez Perce treaties may fish for salmon, shad, or sturgeon under the following provisions:

1) Open Periods: Noon February 1, 2000 through 4:00 PM March 21, 2000.

2) Open Areas: SMCRA 1F, 1G, 1H

3) Gear: No mesh restriction.

4) Allowable sale includes: salmon, sturgeon, carp, and shad.

5) Notwithstanding the provisions of WAC 220-32-058, the closed area at the mouth of:

a) Hood River are those waters along the Oregon side of the Columbia River and extends to mid-stream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles down river from the west bank at the end of the break wall at the west end of the port of Hood River and 1/2 mile upriver from the east bank.

b) Herman Creek are those waters upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

c) Deschutes River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

d) Umatilla River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between points 1/2 mile upstream from the eastern shoreline to one mile downstream from the western shoreline.

e) Big White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

f) Wind River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

g) Klickitat River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1/8 miles downstream from the west bank.

h) Little White Salmon River are those waters of the Columbia River extending to midstream at right angles to the thread of the Columbia River between Light "27" upstream to

a marker located approximately 1/2 mile upstream from the eastern shoreline.

3) Notwithstanding the provisions of WAC 220-22-010, during the open periods described above:

a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of the Gods, and downstream from the west end of the 3 Mile Rapids located approximately 1.8 miles below the Dalles Dam.

b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a deadline marker on the Oregon shore located approximately 3/4 miles above The Dalles Dam fishway exit, thence at a right angle to the thread of the river to a point in mid-river, then downstream to Light "1" on the Washington shore, and downstream from Preacher's Eddy Light below John Day Dam.

c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately 1/2 mile above the John Day River, Oregon, extending at a right angle across the thread of the river to a point in mid-river, then downstream to a fishing boundary marker on the Washington shore approximately opposite the mouth of the John Day River, and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

REPEALER

The following section of the Washington Administrative Code is repealed effective 4:01 p.m. March 21, 2000:

WAC 220-32-05100R Columbia River salmon seasons above Bonneville.

**WSR 00-04-084
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 00-14—Filed February 1, 2000, 4:54 p.m.]

Date of Adoption: February 1, 2000.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000Q and 220-52-04600V; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 75.08.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The area closures and pot limits in this emergency rule are necessitated by federal court order. The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. Agreed plans with applicable tribes have been entered as required by the court order. Such plans have the effect of a federal court order. 898 F. Supp. 1453, 1466, 3.1. The

state/tribal crab allocation balance in Management Region 2 West (Marine Fish-Shellfish Management and Catch Reporting Areas 25B, 25D and a portion of 26A) has changed. The seventy pot limit which was in effect for this area beginning on October 1 can be increased to one hundred pots per boat to provide more opportunity while remaining in compliance with requirements of state/tribal plans and court orders.

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.

February 1, 2000

J. P. Koenings

Director

NEW SECTION

WAC 220-52-04000R Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts. Exceptions to Permanent Rules.

Notwithstanding the provisions of WAC 220-52-040, effective February 1, 2000 until further notice:

(1) The following Marine Fish-Shellfish Management and Catch Reporting Areas are restricted in the number of pots fished, operated, or used by a person or vessel and it is unlawful for any person to use, maintain, operate, or control pots in excess of the following limits regardless of whether one or two licenses are designated on a vessel:

(a) 10 pots in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier dock.

(b) 20 pots in that portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of a line projected from the new Dungeness Light to the mouth of Cooper Creek and east of a line projected from the new Dungeness Light to the outermost end of the abandoned dock at the Three Crabs Restaurant on the southern shore of Dungeness Bay.

(c) A combined total not to exceed 100 pots in the following areas and in any combination: Marine Fish-Shellfish Management and Catch Reporting Areas 25B, the open portion of 25D, and that portion of Marine Fish-Shellfish Management and Catch Reporting Area 26A south and west of a line from Possession Point on Whidbey Island projected 110 degrees true to the shipwreck on the opposite shore.

(d) It is lawful for licensed wholesale dealers to possess male Dungeness crab measuring greater than 6 inches across the back immediately in front of the tips if those crab were taken by a treaty Indian fisher fishing in a tribal authorized commercial fishery scheduled in conformity with a state-tribal management plan that allows for the commercial harvest of crab greater than six inches in width.

NEW SECTION

WAC 220-52-04600U Crab fishery—Seasons and areas. Exceptions to Permanent Rules

Notwithstanding the provisions of WAC 220-52-046, effective February 1, 2000 until further notice:

(1) The following areas are closed to commercial crab fishing:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of a line from the new Dungeness Light to the outermost tip of the abandoned dock at the Three Crabs Restaurant.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 25E south of a line from Contractors Point to Tukey Point.

(2) All waters of Marine Fish/Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, and the portion of Marine Fish/Shellfish Catch Area 26A north of line from the south tip of Possession Point on Whidbey Island to the shipwreck north of Picnic Point.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-52-04000Q Commercial crab size restriction. (99-212)

WAC 220-52-04600V Commercial crab fishing—Allocation/softshell closures. (99-220)

WSR 00-04-097

EMERGENCY RULES

PUBLIC WORKS BOARD

[Filed February 2, 2000, 10:52 a.m.]

Date of Adoption: February 1, 2000.

Purpose: To make the costs of an election an eligible cost for programs under chapter 43.155 RCW.

Citation of Existing Rules Affected by this Order: Amending WAC 399-30-030.

Statutory Authority for Adoption: RCW 43.15.040(4).

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.

EMERGENCY

Reasons for this Finding: The need for immediate action is to provide clear guidance via the WAC for program applicants applying within the next few weeks for financial assistance under chapter 43.155 RCW.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

February 2, 2000

Pete A. Butkus

Executive Director

AMENDATORY SECTION (Amending WSR 98-24-010, filed 11/19/98, effective 12/20/98)

WAC 399-30-030 Loan and financing guarantee applications. (1) Any local government in the state of Washington may apply for a loan or financing guarantee to assist in financing critical public works projects.

(2) All applicants must meet the following conditions:

(a) Applicant cities and counties must be imposing a real estate excise tax under RCW 82.46.010(2) at a rate of at least one-quarter of one percent;

(b) Applicant local governments must have developed a long-term plan for financing public works needs as further described in the loan application package under "capital facilities planning."

(3) Direct costs eligible for public works loans are those costs directly attributable to a specific project and include:

(a) Work done by employees of the applicant, or by other government employees under an inter-local agreement or contract limited to: Engineering, environmental review, design activities, acquisition of rights of way or property, construction inspection activities, roadway seal coating (if bids from private sector contractors have been solicited and compared with the inter-local agreement proposal), and the cleaning, sterilization, or bacteriological testing of water system components prior to public use.

(i) Salaries and wages (at actual or average rates) covering productive labor hours of the local government employees (excluding the administrative organization of the operating unit involved). The cost of services rendered by employees generally classified as administrative are considered a direct cost only when such employees are assigned for short periods of time to perform on a full-time basis the types of

services described above and when similar procedures are followed;

(ii) Employee benefits relating to direct labor are considered a direct cost of construction projects. The following items may be included as employee benefits:

(A) F.I.C.A. (Social Security) - employer's share;

(B) Retirement benefits;

(C) Hospital, health, dental, and other welfare insurance;

(D) Life insurance;

(E) Industrial and medical insurance;

(F) Vacation;

(G) Holiday;

(H) Sick leave; and

(I) Military leave and jury duty.

Employee benefits must be calculated as a percentage of direct labor dollars. The computation of predetermined percentage rates to be applied to current labor costs must be based on the average of total employee benefits and total labor costs for the prior fiscal year and adjusted by known current year variations.

(b) Contract engineering, planning, legal, and financial planning services. The board reserves the right to declare ineligible legal costs that are unreasonable and disproportionate to the project.

(c) Right-of-way acquisition costs including:

(i) Purchase of land and easements acquired for and devoted to the project;

(ii) Purchase of improvements;

(iii) Adjustment or reestablishment of improvements;

(iv) Salaries, expenses or fees of appraisers, negotiators or attorneys;

(v) Removal or demolition of improvement;

(vi) Other direct costs in connection with the acquisition.

Amounts received from the sale of excess real property or improvements and from any rentals will be reduced from the direct cost.

(d) Contract construction work.

(e) Direct vehicle and equipment charges at the actual rental cost paid for the equipment or, in the case of city or county-owned equipment, at the rental rates established by the local government's "equipment rental and revolving fund" following the methods prescribed by the division of municipal corporations. However, such costs must be charged on a uniform basis to equipment used for all projects regardless of the source of funding. Cities with a population of eight thousand or less not using type of fund are allowed the same rates as used by the department of transportation.

(f) Direct materials and supplies.

(i) An overhead rate or "loading factor" is not considered an appropriate additive to the actual cost of materials and supplies used on construction projects unless the factor is readily and properly supportable by the governmental unit's accounting records.

(ii) The cost, or reasonable estimate thereof, of materials paid for as contract estimate items, but not used, will be considered a reduction of direct costs. Any material that is salvaged in connection with a project will be assigned a reasonable value and considered a reduction of direct costs.

(iii) Wetland plants and other materials used for wetland planting, wildlife habitat, or fish habitat may be provided to a

public or nonprofit organization without a reduction of direct costs.

(g) Interdepartmental charges for work performed by the local government for the benefit of specific construction projects is limited to direct costs plus an allocation of indirect costs based on ten percent of direct labor dollars, excluding employee benefits.

(h) Other direct costs incurred for materials ~~((or))~~, services ~~((required))~~, establishment of assessment districts, or elections required for a specific project are eligible for participation by public works loan funds and may include, but are not limited to such items as:

(i) Telephone charges;

(ii) Reproduction and photogrammetry costs;

(iii) Video and photography for project documentation;

(iv) Computer usage; ~~((and))~~

(v) Printing and advertising; and

(vi) Election costs necessary to provide authority to incur debt or to establish a mechanism for debt repayment.

(4) Other than work identified in subsection (3)(a) of this section, no government employee labor related costs, including force account work, are eligible for financing assistance or to be considered as local match under this chapter.

(5) Applications must be submitted in writing, on forms provided by the board for the current funding cycle.

(6) A responsible official of the applicant jurisdiction must sign and verify each application for financial assistance. The official must also provide the board with additional materials or information in support of the application when requested by the board or its staff.

WSR 00-04-001
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE GOVERNOR
 (Clemency and Pardons Board)
 [Memorandum—January 17, 2000]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following schedule of its regular meetings for 2000: The March 10, June 9, September 8, and December 8 meetings of the Clemency and Pardons Board will be held in the John A. Cherberg Building, Hearing Room 4, Olympia, Washington, starting at 10:00 a.m.

WSR 00-04-003
INSURANCE COMMISSIONER'S OFFICE
 [Filed January 19, 2000, 4:19 p.m.]
 TECHNICAL ASSISTANCE ADVISORY
 T 2000-1

The Office of the Insurance Commissioner has recently received inquiries regarding the "prompt pay" provisions of the provider contract rules (R 98-21). WAC 284-43-321 regulates contracts between a carrier and each provider. WAC 284-43-321 (2)(a) sets forth the minimum standards for carrier payment of claims:

For health services provided to covered persons, a carrier shall pay providers and facilities as soon as practical but subject to the following minimum standards:

- (i) *Ninety-five percent of the monthly volume of clean claims shall be paid within thirty days of receipt by the responsible carrier or agent of the carrier; and*
- (ii) *Ninety-five percent of the monthly volume of all claims shall be paid or denied within sixty days of receipt by the responsible carrier or agent of the carrier, except as agreed to in writing by the parties on a claim-by-claim basis.*

This section has been misunderstood by at least one party to mean that carriers must only pay ninety-five percent of all of the clean claims received by the *carrier* within thirty days and pay or deny all claims received by the *carrier* within sixty days. This is not the case. The rule references "providers and facilities." That reference and the context of the rule clearly indicate that the standards must be applied to the claims of each provider. The volume referred to in the rule is the monthly volume of each *provider's* claims to a carrier, not the total of all of the carrier's claims from all providers. Carriers have a duty to pay claims from each provider and to act in good faith toward each provider. Carriers are held to the standards of WAC 284-43-321 of paying ninety-five percent of each provider's clean claims within thirty days of receipt and ninety-five percent of all claims from each provider within sixty days.

The "carrier claim" interpretation also clearly conflicts with the language, context, and intent of the rule. Implementation would lead to absurd results. For example, it would allow the possibility of a carrier's paying none of a certain provider's claims if it met the ninety-five percent target overall throughout its provider network. Additionally, there would be significant issues of proof on whether the carrier was actually meeting the correct standard.

WSR 00-04-004
 AGENDA
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 [Filed January 20, 2000, 11:00 a.m.]

Shown below is the Department of Social and Health Services' Semi-Annual Rule-Making Agenda, by administration, for January 1, 2000, through June 30, 2000.

There may be more rule-making activity, not on the agenda, as a result of the reviews being done in accordance with the Governor's Executive Order 97-02.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES
 SEMI-ANNUAL RULE-MAKING AGENDA FOR 1/1/00 THROUGH 6/30/00
 AGING AND ADULT SERVICES ADMINISTRATION

WAC Chapter or Section Number	Purpose of rule being developed or amended.
WAC 388-15-650 through 662	To adopt rules on adult day services under chapter 388-71 WAC, using clear rule-writing standards.
WAC 388-15-610	To make the COPEs program eligibility requirements identical to that of Medicaid nursing facility care, as required by federal regulations; to adopt rule under chapter 388-71 WAC, using clear rule-writing standards.
WAC 388-15-202, 388-15-203, 388-15-205	To amend methodologies and assessment tools for authorizing services; if necessary, to add definitions about self-directed care, as provided in ESHB 1880; to adopt rules under chapter 388-71 WAC, using clear rule-writing standards.

MISC.

WAC Chapter or Section Number	Purpose of rule being developed or amended.
WAC 388-79-030, 388-79-040 and related sections in chapter 388-79 WAC.	To amend rules on guardianship fees to establish a fixed maximum fee charged to Medicaid recipients who are required to participate in the cost of their long-term care; to preclude allowance of retroactive guardianship fees prior to the Medicaid recipient's eligibility for long-term care services.
WAC 388-71-XXX	To develop rules on private-duty nursing that apply specifically to adult clients.
CHILDREN'S ADMINISTRATION	
WAC 388-15-130	Social services for families, children, and adults—Child protective services—Authority.
WAC 388-15-131	CPS special requirements for Indian children.
WAC 388-15-132	CPS acceptance of reports—Eligibility.
WAC 388-15-134	CPS notification.
Chapter 388-15 WAC	CPS, new sections, rules to review and amend findings of abuse and neglect if appropriate; notification of findings and appeal process.
WAC 388-15-150	Child foster care.
WAC 388-15-160	Adoption services.
WAC 388-15-170	General and seasonal day care services.
WAC 388-15-171	Subsidized child care for teen parents.
WAC 388-15-174	Subsidized child care for seasonal workers.
WAC 388-15-175	Child care for child protective services and child welfare services.
WAC 388-15-176	In-home/relative child care.
WAC 388-15-220	Homemaker services.
WAC 388-15-570	Family reconciliation services.
New chapter 388-25 WAC	New sections on Indian child welfare program.
Chapter 388-60 WAC	Domestic violence perpetrator program standards.
Chapter 388-70 WAC	Child welfare services (CWS)—Foster care—Adoption services—Services to unmarried parents; adoption support.
Chapter 388-73 WAC	Child care agencies, rules regarding minimum licensing and certification requirements for residential programs.
Chapter 388-74 WAC	Child welfare services, rules regarding complaint resolution.
Chapter 388-150 WAC	Rules regarding minimum licensing requirements for child day care centers.
Chapter 388-151 WAC	Rules regarding school-age child care minimum licensing requirements.
Chapter 388-155 WAC	Rules regarding minimum licensing requirements for family child day care homes.
Chapter 388-160 WAC	Rules regarding minimum licensing requirements for overnight youth shelters.
Chapter 388-165 WAC	New chapter, rules regarding child care subsidy programs.
Chapter 388-330 WAC	Rules regarding background inquiries.
WAC 440-44-025 and 440-44-026	Rule relating to fees (i. e., day care centers and family day care home licensing fees).
Chapter 248-554 WAC	Shelters for victims of domestic violence.
ECONOMIC SERVICES ADMINISTRATION	
WAC 388-490-0005 and related rules	To clarify the department's mandates regarding verification requirements and establish a single state-wide standard.
NEW RULES	To change mandates about lump sum payments, transfer of property and treatment of resources during eligibility determination to implement changes required by legislation.
NEW RULES	To allow a client with earned income to submit a quarterly report in place of currently required face to face interviews.
WAC 388-450-0170, 388-478-0035, and 388-450-0175	To implement a deduction to be used when figuring eligibility for clients who are working and apply current income budgeting rules to GA clients to simplify eligibility rules.
WAC 388-424-0015	To eliminate current residency requirements for the state family assistance program.

WAC Chapter or Section Number	Purpose of rule being developed or amended.
HEALTH AND REHABILITATIVE SERVICES ADMINISTRATION	
Chapter 275-25 WAC, new chapter 388-850 WAC	To meet requirements of EO 97-02.
Chapter 275-26 WAC, new chapter 388-820 WAC	To meet requirements of EO 97-02.
Chapter 275-27 WAC, new chapter 388-825 WAC	To meet requirements of EO 97-02.
Chapter 275-31 WAC, new chapter 388-830 WAC	To meet requirements of EO 97-02.
Chapter 275-38 WAC, new chapter 388-835 WAC	To meet requirements of EO 97-02.
Chapter 275-41 WAC, new chapter 388-840 WAC	To meet requirements of EO 97-02.
Chapter 275-54 WAC	Regulatory improvement.
Chapter 275-55 WAC	Regulatory improvement.
Chapter 275-57 WAC	Regulatory improvement.
Chapter 275-59 WAC	Response to legislation.
Chapter 388-240 WAC	Review and amend as necessary per governor's executive order on regulatory improvement. Move to chapter 388-800 WAC per order of the DSHS secretary. Update rules for public assistance for how clients receive detoxification services and ADATSA services. Review outpatient limits.
Chapter 388-815 WAC	Review and amend as necessary per governor's executive order on regulatory improvement. Rewrite drug free workplace regulations in clear rule-writing format.
WAC 388-890-105	Rule will be amended to correct application process.
WAC 388-890-175	Rule will be amended to correct examples of appropriate assistive technology devices.
WAC 388-890-290	Rule will be amended to include eyeglasses, etc. as a type of physical restoration service.
WAC 388-890-360	Rule will be amended to comply with DSHS WAC revisions on in-home/relative childcare.
WAC 388-890-675	Rule will be amended to correct the description of a realistic employment setting.
WAC 388-890-1165	Rule will be amended to correct a cross-reference to another WAC.
Chapter 440-22 WAC	Review and amend as necessary per governor's executive order on regulatory improvement. Move to chapter 388-805 WAC per order of the DSHS secretary. Implement legislation that moves chemical dependency counselor credentialing to the Department of Health.
Chapter 440-44 WAC	Repeal and add certification fee section to chapter 388-805 WAC.
WAC 490-500-110	Rule will be repealed and new rules proposed. (See new sections described below.)
WAC 490-500-520	Rule will be repealed and new rules proposed. (See new sections described below.)
New sections	Recommendations are expected in late January that will include revisions to the standards for DVR service providers and DVR certification requirements.
JUVENILE REHABILITATION ADMINISTRATION	
Chapter 275-33 WAC, Transfer of juvenile offenders to the Department of Corrections	To review the chapter and make any necessary amendments based on requirements of the executive orders.
Chapter 275-35 WAC, Consolidated juvenile services programs	To review the chapter and make any necessary amendments based on requirements of the executive orders.
Chapter 275-37 WAC, Juvenile Rehabilitation Administration—Rules, practices, and procedures	Develop WAC as needed to meet requirements of SSB 5010, relating to sexual misconduct by employees of custodial agencies.

MISC.

WAC Chapter or Section Number	Purpose of rule being developed or amended.
WAC 275-37-020 Rated bed capacity	To review the WAC and make necessary amendments or repeal based on requirements of the executive orders.
Chapter 275-47 WAC, Collection of costs of support, treatment, and confinement of juveniles under RCW 13.40.220	To review the chapter and make any necessary amendments based on requirements of the executive orders.
Chapter 275-110 WAC, Impact account—Criminal justice cost reimbursement	To review the chapter and make any necessary amendments based on requirements of the executive orders.
MEDICAL ASSISTANCE ADMINISTRATION	
WAC 388-81-175	Audit dispute resolution—Regulatory review and policy change.
WAC 388-81-200	Appeal of adverse department action—Contractor/provider—Regulatory and policy review.
WAC 388-86-012	Audiometric services—Regulatory review.
WAC 388-86-017	Case management services—Regulatory and policy review.
WAC 388-86-019	Chiropractic services—Regulatory review.
WAC 388-86-035	Family planning—Regulatory review.
WAC 388-86-055	Laboratory services—Regulatory review.
WAC 388-86-087	Personal care services—Regulatory review.
WAC 388-86-105	Voluntary agency—Regulatory review.
WAC 388-86-110	X-ray services—Regulatory review.
WAC 388-86-115	Medical care provided out-of-state—Regulatory review.
WAC 388-86-120	Medical care services—Regulatory review.
WAC 388-86-300	Chemical dependency outpatient services—Regulatory review.
WAC 388-87-019	Payment—Chiropractic services—Regulatory review.
WAC 388-87-027	Services requiring prior approval—Regulatory review.
WAC 388-87-045	Payment—Blood—Regulatory review.
WAC 388-87-060	Payment—Extended care patient—Coinsurance—Regulatory review.
WAC 388-87-200	Payment for jail inmates medical care—Regulatory review.
WAC 388-501-0125	Requirements for advance directives—Regulatory review.
WAC 388-501-0150	Confidential records—Regulatory review.
WAC 388-501-0180	Out-of-state medical care—Regulatory review.
WAC 388-502-0205	Civil rights—Regulatory review.
WAC 388-502-0210	Statistical data—Vendor reports—Regulatory review.
WAC 388-502-0230	Fair hearing—Providers—Regulatory review.
WAC 388-530-1000	Pharmacy services—MAA drug program—Regulatory review.
WAC 388-530-1050	Pharmacy services—Definitions—Regulatory review.
WAC 388-530-1100	Pharmacy services—Covered drugs and pharmaceutical supplies—Regulatory review.
WAC 388-530-1150	Pharmacy services—Noncovered drugs and pharmaceutical supplies—Regulatory review.
WAC 388-530-1200	Pharmacy services—Drug formulary—Regulatory review.
WAC 388-530-1250	Pharmacy services—Prior authorization—Regulatory review.
WAC 388-530-1750	Pharmacy services—Drugs and pharmaceutical supplies—TPL—Regulatory review.
WAC 388-530-1850	Pharmacy services—Drug utilization and education council—Regulatory review.
WAC 388-530-1900	Pharmacy services—Drug use review—Regulatory review.
WAC 388-530-1950	Pharmacy services—Point-of-sale (POS) system/prospective drug utilization review (PRO-DUR)—Regulatory review.
Chapter 388-547 WAC	Ambulatory surgery centers, reorganizing existing rules into new chapter.

WAC Chapter or Section Number	Purpose of rule being developed or amended.
MANAGEMENT SERVICES ADMINISTRATION	
Chapter 388-08 WAC	Practice and procedure—Fair hearing. Rules will be reorganized, renumbered, and rewritten in question and answer format.

Marie Myerchin-Redifer
Rules and Policies Assistance Unit

Document Description: Effective for claims with dates of service on or after January 1, 2000, until further notice, an expedited prior authorization (EPA) process has been established for selected durable medical equipment using the specific medical criteria identified within this numbered memorandum.

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) 725-1345, TDD 1-800-848-5429, fax (360) 586-1727, e-mail mailto:MYERSEA@dshs.wa.gov.

January 19, 2000

Leslie Saeger
Regulatory Improvement
Project Manager

WSR 00-04-005

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed January 20, 2000, 11:02 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: 99-61 MAA Numbered Memorandum.

Subject: 99-61 MAA Expedited Prior Authorization Process for DME.

Effective Date: January 1, 2000.

WSR 00-04-009

**AGENDA
HEALTH CARE AUTHORITY**

[Filed January 20, 2000, 4:11 p.m.]

January 31, 2000 Rule-Making Semi-Annual Agenda

Approximate Preproposal	Purpose of the Rule Why is this Significant?	Rule(s) Mandate	Other Agencies who may have Interest in the Subject of Rule(s)
1. Date 2. Subject Area 3. Contact/Telephone Number			
1. First quarter 2000 2. WAC 182-25-020 3. Rosanne Reynolds, (360) 923-2948	Benefits need to be amended to ensure consistency with statute.	Consistency with RCW 70.47.060(1).	Department of Social and Health Services, Medical Assistance Administration.
1. May 2000 2. PEBB eligibility rules (chapter 182-12 WAC) 3. Mich'l Prentice Needham, (360) 923-2735	WAC 182-12-119 Eligible dependents, defines dependents eligible for PEBB coverage. The board may explore modifications to dependents, including eligible spouses (legal spouses currently - may expand to include same sex domestic partner).	No mandate - board interest.	Political subdivisions, school districts, and state agencies participating in the PEBB program.
1. May 2000 2. PEBB eligibility rules for retirees (chapter 182-12 WAC) 3. Mich'l Prentice Needham, (360) 923-2735	WAC 182-12-117 defines when retirees are eligible for PEBB coverage and under what conditions. WAC 182-12-132 clarifies when retirees can leave and return to PEBB coverage. PEBB is exploring clarifying language with key stakeholders, and the board may consider some modifications to more easily accommodate retiree interests.	No mandate - board interest.	All state higher education institutions including the community colleges.

*All agencies, in that the eligibility rules will affect all state employees.

NAME OF AGENCY: Washington State Health Care Authority (HCA).

CONTACT/TELEPHONE: Melodie Bankers, Rules Coordinator, (360) 923-2728.

**WSR 00-04-012
PROCLAMATION
OFFICE OF THE GOVERNOR**

[January 21, 2000]

WHEREAS, extensive winter floods, winds, and slides occurred between December 11, 1999, and December 20, 1999, threatening citizens and property of Washington State;

MISC.

WHEREAS, these events caused shoulder washouts, which filled roadway ditches and culverts with eroded soils and debris, loss of bridge embankment, and other damage in Clallam, Grays Harbor, Jefferson, Skagit, Pierce, and Whatcom Counties;

WHEREAS, the Washington State Military Department is coordinating resources to support local officials in alleviating the immediate impacts upon the infrastructure, and is continuing to assess the magnitude of these events;

NOW, THEREFORE, I, Gary Locke, Governor of the state of Washington, as a result of the aforementioned situation and under Chapters 38.08, 38.52, and 43.06 RCW, do hereby proclaim that a State of Emergency exists in Clallam, Grays Harbor, Jefferson, Skagit, Pierce, and Whatcom Counties and direct the supporting plans and procedures to the Washington State Comprehensive Emergency Management Plan be implemented. State agencies and departments are directed to utilize state resources and to do everything possible to assist affected political subdivisions in an effort to respond to and recover from the event. Additionally, the Washington State Department of Transportation is instructed to coordinate all event-related assistance to the affected areas.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the state of Washington to be affixed at Olympia, this 21st day of January, A.D., Two Thousand.

Gary Locke

Governor of Washington

BY THE GOVERNOR:

Ralph Munro

Secretary of State

WSR 00-04-030

NOTICE OF PUBLIC MEETINGS
CASCADIA COMMUNITY COLLEGE

[Memorandum—January 22, 2000]

Following is a list of 2000 board meeting dates and locations for Cascadia Community College.

Cascadia Community College

2000 Board of Trustees - Meeting Dates

- Monday, January 10, 2000
Monday, February 14, 2000
Monday, March 13, 2000
Monday, April 10, 2000
Monday, May 8, 2000
Monday, June 12, 2000
Monday, July 10, 2000
Monday, August 14, 2000
Monday, September 11, 2000
Monday, October 9, 2000
Monday, November 13, 2000
Monday, December 11, 2000

Location:

- January - July, 2000
Cascadia Community College
19017 120th Avenue N.E., Suite 102
Bothell, WA 98011
August - December, 2000
Cascadia Community College
18345 Campus Way N.E.
Bothell, WA 98011

All meetings will begin at 6:30 p.m.

WSR 00-04-018

INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed January 24, 2000, 10:33 a.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 193.
Subject: Referrals for unborn children.
Effective Date: January 11, 2000.

Document Description: This document explains procedural changes in policy for dealing with referrals on unborn children.

To receive a copy of the interpretive or policy statement, contact Alyson Reed, 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 areed@dshs.wa.gov.

January 18, 2000
Alyson Reed

WSR 00-04-032

NOTICE OF PUBLIC MEETINGS
CENTER FOR
INFORMATION SERVICES

[Memorandum—January 20, 2000]

Meetings scheduled at this time:

- CIS Executive 10:00-11:30 a.m., January 27, 2000
Committee Meeting State Board for Community and Technical Colleges
CIS Executive 9:30-11:30 a.m., February 24, 2000
Committee Meeting South Puget Sound Community College
CIS Executive 9:30-11:30 a.m., March 30, 2000
Committee Meeting Clark College
CIS Executive 9:30-11:30 a.m., April 27, 2000
Committee Meeting North Seattle Community College
CIS Executive 9:30-11:30 a.m., May 25, 2000
Committee Meeting South Seattle Community College
CIS Executive 9:30-11:30 a.m., June 29, 2000
Committee Meeting Wenatchee Valley College

MISC.

These meetings are scheduled as part of WACTC. We have not received notice of WACTC meetings beyond June. Meetings scheduled for remaining months in 2000 will be sent to the Office of the Code Reviser when the WACTC schedule is received.

LaConner, Washington
(contact president's office for more information)

Chairperson, Katie Philbrick, has called a special meeting of the board of trustees for Monday, January 24, 2000, 3:00 p.m. This meeting is being held as a work session, no action will be taken, for the board of trustees. The board of trustees will not adjourn to executive session after the open portion of the meeting.

WSR 00-04-033
NOTICE OF PUBLIC MEETINGS
SKAGIT VALLEY COLLEGE
[Memorandum—January 24, 2000]

NOTICE OF SPECIAL MEETING

BOARD OF TRUSTEES
COMMUNITY COLLEGE DISTRICT NO. 4
SKAGIT VALLEY COLLEGE

Monday, January 24, 2000

WSR 00-04-035
AGENDA
DEPARTMENT OF LICENSING
[Filed January 25, 2000, 11:25 a.m.]

Following is the rule-making agenda for the Department of Licensing. This agenda is sent as a requirement of RCW 34.05.314.

DEPARTMENT OF LICENSING
RULE-MAKING AGENDA FOR RULES UNDER DEVELOPMENT
JANUARY 2000

CR-101	CR-102	PROGRAM	SUBJECT
97-11-002		Driver Responsibility	Procedural rules regarding the revocation and restoration of driving privileges of those forced to be an habitual traffic offender under chapter 46.65 RCW, including rules regarding the right to a hearing.
97-15-037		Vehicle Dealers	Change in vehicle dealer temporary permit requirements.
97-13-079		Professional Athletics	Establish new rules for the regulation of professional boxing, wrestling, kickboxing and martial arts.
98-09-079		Boxing	Rule revisions on this subject are needed to clarify processes and procedures.
98-11-038		Funeral	Reinstatement of license or registration following suspension for failure to comply with a support order under chapter 74.20 RCW or a residential or visitation order under chapter 26.09 RCW.
98-16-073		Title and Registration	Chapter 308-96A WAC, Vehicle licensing, including but not limited to sections 205, 206, 220.
99-07-136		Engineers	New section titled signature.
99-10-054	00-01-060	Title and Registration	Chapter 308-58 WAC, Reporting destroyed vehicles.
99-10-055		Title and Registration	Chapter 308-99 WAC, Procedures for operation of foreign plated vehicles in this state.
99-12-018		Master Licensing	Chapter 308-87 WAC, Limousine carrier businesses.
99-16-051	99-21-071	Dealers	Unauthorized and abandoned vehicle review and to implement ESB 5649.
99-18-127	00-01-005	Title and Registration	Chapter 308-56A WAC, Manufactured home certificates of ownership.
99-18-126		Title and Registration	Chapter 308-57 WAC, Motor vehicle excise tax.
99-18-131	00-01-059	Title and Registration	Chapter 308-88 WAC, Rental car taxation and licensing.
99-18-130		Title and Registration	Chapter 308-93 WAC, Consent decree entered in <i>United States vs. Washington</i> , Civ. No. 9213-Ph I, Nov. 1994.
99-18-129	99-23-092	Title and Registration	Chapter 308-56A WAC, Branding and special built vehicles.
99-18-127		Title and Registration	Chapter 308-56A WAC, Manufactured home certificates of ownership.
99-18-010		Fuel Tax	Chapter 308-97 WAC, Trip permits.
99-18-101		Real Estate	Chapter 308-124H WAC.
99-20-112	00-01-045	Title and Registration	Chapter 308-56A WAC.
99-20-145		Engineers	Establish guidelines for obtaining a practice permit in accordance with RCW 18.210.090.
99-21-053	00-01-021	Appraisers	Incorporate by reference of the 2000 edition of the uniform standards of professional appraisal practice.
99-23-028		Sellers of Travel	Update chapter 308-129 WAC due to new legislative changes.
00-01-034		Title and Registration	Chapter 308-93 WAC.
00-01-035		Title and Registration	Chapter 308-56A WAC.

MISC.

00-01-036	00-03-094	Title and Registration	Chapter 308-96A WAC.
00-01-042		Athletics	Boxing chapter 36-12 WAC, wrestling chapter 36-13 WAC, martial arts chapter 36-14 WAC.
00-01-098		Admin. Services	Chapter 308-04 WAC.
00-01-153		Title and Registration	Chapter 308-94 WAC.
00-01-154		Title and Registration	Chapter 308-93 WAC.
00-01-220		Engineers	Establishing and implementing practice permits as required under chapter 18.210 RCW.
00-03-037		Fuel Tax	Chapter 308-77 WAC, Special fuel.
00-03-038		Prorate	Chapter 308-91 WAC, Reciprocity and proration.

WSR 00-04-037
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
 [Memorandum—January 25, 2000]

EASTERN WASHINGTON UNIVERSITY
BOARD OF TRUSTEES
January 28, 10:00 a.m.
Cheney Campus
Pence Union Building
Room 263-65

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling the president's office, (509) 359-6598.

WSR 00-04-040
AGENDA
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Memorandum—January 26, 2000]

Department of Financial Institutions
Semi-Annual Agenda for Rules Under Development
January 1, 2000 - June 30, 2000

DIVISION OF BANKS

1. Possible amendments to WAC 50-12-290 Exceptions to the lending limits.

DIVISION OF CONSUMER SERVICES

1. Amendments to chapter 208-660 WAC, Mortgage brokers, to adopt terms used in statute, clarify disclosure requirements, and clarify requirements for processing trust funds.

2. Amendments to chapter 208-680 WAC, Escrow, to be consistent with statutory changes.

DIVISION OF CREDIT UNIONS

1. Amendments to WAC 208-418-040 Quarterly asset assessments.

2. Amendments to WAC 208-440-010 Credit union financial interest in commercial enterprise.

3. Repeal of WAC 208-440-020 Endorsements of commercial products or services, 208-440-040 Use of credit union space to advertise commercial products and services, and 208-440-050 Commercial programs offered to credit union members.

4. Amendments to chapter 208-472 WAC, Credit union field of membership expansion.

5. Adopt rules to implement chapter 397, Laws of 1997, which was an extensive revision to the credit union statute.

6. Adopt rules regarding member business loans.

DIVISION OF SECURITIES

1. WAC 460-33A-075, relating to the filing of mortgage paper security advertising, contains references to the time period of "five days" in subsection (2). It is expected that the paragraph will be amended to clearly utilize a "business day" standard rather than a calendar day standard for both the filing and use of mortgage paper securities advertising.

2. Amendments to WAC 460-33A-090(3) to correct internal references pertaining to dishonest and unethical practice prohibitions contained in rules relating to securities broker-dealers and their salespersons to mortgage broker-dealers and mortgage salespersons.

3. Amend WAC 460-33A-105 to provide guidance as to when an appraiser is independent. The term "independent appraiser" is used in the rule but is not defined.

4. Amendments to WAC 460-16A-205 to reference updated versions of certain statements of policy promulgated by the North American Securities Administrators Association that are referenced in the rule and in some cases have since been updated.

5. A proposed rule making on form CR-102 was filed on January 4, 2000, to add a new WAC chapter (chapter 460-21C WAC, Broker-dealer services at financial institutions) to clarify and make uniform the rules relating to broker-dealers operating on the premises of financial institutions. The proposed rules are based upon the National Association of Securities Dealers Conduct Rule 2350 and the North American Securities Administrators Association Uniform Rule on Broker-dealer Services at Financial Institutions. Date of intended adoption is February 9, 2000.

MISC.

WSR 00-04-042
POLICY STATEMENT
WASHINGTON STATE LOTTERY

[Filed January 26, 2000, 2:24 p.m.]

The Washington State Lottery has recently adopted or revised the following policies:

POL 110.008 - Reporting of Lotto, Quinto and Lucky for Life Results (Revised)

Added information on Lucky for Life. The headquarters drawing official (rather than the public information officer) now notifies the media of Lotto, Quinto, and Lucky for Life results. The HDO no longer notifies the PIO and director if there is a top prize winner in any of these games.

Signed November 8, 1999.

POL 110.013 - Cellular Telephones (Revised)

Lottery managers (rather than the director) now approve cell phone/line allocations. Managers (rather than the internal auditor) now review cell phone usage for compliance with the policy. Updated titles, forms, etc.

Signed October 8, 1999.

POL 110.552 - Daily Game/Daily Keno Drawings (Revisions)

Added that the deputy director is designated authority to approve visitors witnessing a drawing.

Clarified that:

- Problems with terminal access due to a system problem are referred to the headquarters drawing officials; problems due to entering a wrong password are handled by using the emergency password, found in the location designed by the security chief.
- "Metal" strip seals are no longer used on the ball cabinets; refers to "numbered" seal only.
- The Daily Keno ADM automatically performs 40,000 tests (not 30,000).

Added that if the vault alarm does not activate after three attempts, drawing officials refer to the drawing contingencies. The vault is no longer alarmed when officials exit to perform drawing activities. The alarm is rearmed only when all drawing activities are complete.

Signed November 23, 1999.

POL 110.554 - On-Line Drawing Contingencies (Revision)

Changed the weight tolerance range for the Lucky for Life ball sets from two grams to one gram. Clarified throughout the document, that anytime an on-air foul is called, the announcer includes a script clarifying to viewers of the subsequent broadcasts, that they are watching the official drawing. If the primary machine fails, the drawing coordinator will now determine the best method to conduct the drawing depending on the circumstances. Clarified that when the Daily Game ball sets reject, the external auditor will determine which ball set the alternate set will replace.

In the "total power failure before the live drawing" section, and in the added section on the LDO's terminal failing,

added that the drawing coordinator will ensure the LDO portion of the enter/verification process is performed in a manner that protects the integrity of that portion of the on-line drawing process, and listed what those possible steps are. Clarified that the HDO coordinator has to authorize the HDO to go to the on-line vendor site during power outages.

Signed November 9, 1999.

POL 110.552 - Wednesday and Saturday Daily Keno, Daily Game, Quinto, Lucky for Life, and Lotto Drawings

Changed the established weight tolerance range for Lucky for Life balls from two grams to one gram.

Added information on what to do if the Lucky for Life machine selects less than four balls, or the Quinto machine allows selection of less than five balls (call a foul, work with broadcast station to disseminate final information, etc.).

Added that the deputy director is designated authority to approve visitors witnessing a drawing.

Clarified that problems with terminal access due to a system problem are referred to the headquarters drawing officials; problems due to entering a wrong password are handled by using the emergency password, found in the location designated by the security chief.

Clarified that:

- "Metal" strip seals are no longer used on the ball cabinets; refers to "numbered" seal only.
- The Daily Keno ADM automatically performs 40,000 tests (not 30,000).

Added that if the vault alarm does not activate after three attempts, drawing officials refer to the drawing contingencies. The vault is no longer alarmed when officials exit to perform drawing activities. The alarm is rearmed only when all drawing activities are complete.

Incorporated other minor housekeeping changes necessary due to set redesign and the lottery no longer having an internal auditor, etc..

Signed November 23, 1999.

POL 120.001 - Tuition Reimbursement (Revision)

Employee requests for tuition reimbursement can now be approved by the employee's supervisor (rather than at the level of assistant director or above). Clarified that reimbursement is limited to tuition only - not for registration fees. Clarified that probationary, trial service and temporary employees are eligible to request reimbursement, but the employee must be in permanent status at the time reimbursement is made.

The allowed reimbursement rates were changed as follows:

Semester	From \$500 to \$550
Trimester	From \$333 to \$366
Quarter	From \$250 to \$275
Total in 12 months	From \$1,000 to \$1,100

Signed December 9, 1999.

MISC.

POL 120.008 - Overtime

Clarified that this policy refers to classified employees only; exempt employees do not usually receive overtime. Added a note that exchange time must be approved in advance and a record maintained by the manager or his/her designee. An assistant director, the deputy director, or the director can designate approval of exception work week employees to receive exchange time for hours worked over the 40-hour work week. The deputy director (in addition to the director) can now authorize exceptions to the policy.

Signed November 19, 1999.

POL 120.009 - Drawing Duty Compensation

Deleted the reference to "courier duties," which no longer apply. Added a note clarifying that drawing officials must work their full schedule in their primary position.

Signed November 19, 1999.

POL 120.031 - Voluntary Employees Beneficiary Association Medical Expense Plan (VEBA-MEP)

This new policy allows employees who qualify to retire during the following calendar year to vote to determine whether the lottery will participate in the VEGA-MEP [VEBA-MEP] plan. If the lottery does participate, all employees who retire during the calendar year deposit proceeds from their sick leave cash out into a tax-free medical savings account, used to pay out-of-pocket medical expenses. If they do not deposit into the account, they lose their sick leave cash out.

Signed December 14, 1999.

POL 130.002 - Appointing, Training, and Removing Lottery Security Officials (LSOs) and Lottery Drawing Officials (LDOs) (Revision)

Clarified that the drawing coordinator is not required to give written notice and/or take corrective action before dismissing an employee from drawing duty (drawing officials are exempt from civil service protection).

Signed November 1, 1999.

POL 130.005 - Retailer Criminal History and Credit Criteria for Applicants and Licensees (Revision)

The WSL now performs credit checks on all applicants (not just on-line applicants) and on the random 2% follow-up checks performed every year. For corporations/organizations, the WSL no longer performs checks on "any authorized signatory of documents," "and spouse" (of a 10% or more stockholder), or on "those holding 10% or more equity in the corporations" (for spouses of officers). Applicants with a marginal or minimal credit rating are now required to post a \$7,500 "savings certificate" rather than cash.

Forms are accepted up to one year after their completion date (used to be six months). Information was added regarding licensing representative duties if information is missing from the forms.

For removal of on-line terminals, the machines are now pinned immediately and removed as soon as the lottery's on-line vendor can schedule removal, rather than waiting to

remove the terminal until the twenty day period for filing for an administrative hearing has passed.

When the WSL takes action against a retailer who is a partial owner of other lottery-licensed retail location(s), the other owners are notified of the action taken and the reason(s) for it.

Signed December 23, 1999.

POL 220.016 - State-Sponsored Charge Cards (Revision)

The administrative services manager (rather than the director) is now authorized to approve state-sponsored charge cards. A travel designee now processes credit card applications, distributes cards, cancels cards, etc.

Signed November 17, 1999.

POL 240.004 - Terminating Retailers

Terminated lottery retailers are now given five business days (instead of fifteen) to pay the amount owed the lottery if the retailer's lottery bank account was closed before the final EFT sweep.

Signed December 9, 1999.

POL 250.005 - Prize Claim Validation and Payment (Revised)

This document was completely redone to combine the mail-in and walk-in procedures and eliminate procedures that were duplicated in desk guides and did not involve pass offs to others.

Signed October 12, 1999.

POL 310.013 - On-Line Terminal Removal Due to Low Sales or Breach of Agreement for On-Line Sales

The lottery now considers twenty-six week (rather than thirteen week) scratch sales averages when determining low sales. Added that the director has the discretion to waive minimums for retailers who are the only providers of on-line tickets in a defined town or unincorporated area; and included examples of when this determination might be made.

When terminating an on-line retailer, the retailer's on-line terminal is now pinned and removed, and the telephone lines removed, even if the retailer requested an administrative hearing. If the retailer wins an appeal, the lottery will pay the cost to reinstall the telephone line.

Clarified that:

- A pinned terminal still produces accounting reports;
- The on-line terminal is removed on the day scheduled by GTECH; and
- Retailers do not necessarily have to provide "prior" documentation of a significant disruption in on-line service for those sales weeks to be factored out of the average.

Signed November 30, 1999.

To receive a copy of any of these policies, contact Becky Zopolis, Washington State Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 664-4816, fax (360) 664-4817.

January 25, 2000
Merritt D. Long
Director

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

WSR 00-04-043
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Commission on Pesticide Registration)
[Memorandum—January 23, 2000]

REGULAR MEETING DATES FOR
WASHINGTON STATE COMMISSION ON PESTICIDE REGIS-
TRATION

The Washington State Commission on Pesticide Registration has determined a schedule for the remainder of 2000. Per RCW 42.30.075, we are making this schedule available to the public through your office. Meetings commence at 10 a.m. and are open to the public.

CHANGE IN SCHEDULE

Tuesday, March 7 Moses Lake, Hallmark Inn

SCHEDULE FOR THE REMAINDER OF 2000

Wednesday, May 17 Puyallup, Alomondinger Center
Wednesday, July 12 Prosser, WSU Extension Center
Wednesday, September 13 Snoqualmie Pass, Summit Inn
Wednesday, November 8 Ellensburg, Hal Holmes Center

Proposals are accepted throughout the year but must be received thirty days prior to the meeting at which they will be presented. March and September meetings are designated for new mandate project proposals; July and November meetings are designated to hear old mandate proposals; in May, both mandates will be addressed. Emergency requests will be accepted at any time.

Examples available: <http://wscpr.org>. For information, call (509) 543-9757.

Should you have any further questions in regard to WSCPR proposals or meeting specifics, please contact Alan Schreiber, 2011 West Pearl Street, Suite B, Pasco, WA 99301, (509) 543-9757, fax 9758, aschreib@cbvcp.com; or Tanya Wojtowych, P.O. Box 145, Genesee, ID 83832, (208) 285-0121, fax 0165, juliana@moscow.com.

WSR 00-04-044
NOTICE OF PUBLIC MEETINGS
FIRE PROTECTION
POLICY BOARD

[Memorandum—January 26, 2000]

FIRE PROTECTION POLICY BOARD
2000
MEETING SCHEDULE

January 20, 2000, 10 a.m.	General Administration Building, Olympia
April 4, 2000, (Fire Service 2000 Conference) 6 p.m. (dinner meeting)	WestCoast Wenatchee Convention Center
June 22, 2000, (Fire Chief's Annual Conference) 6 p.m. (dinner meeting)	WestCoast Wenatchee Convention Center
October 25, 2000, (Fire Marshal Roundtable) time to be determined	Campbell's Conference Center Chelan, Washington

For information regarding Fire Protection Policy Board meetings, please contact Ellen Tombleson, Washington State Patrol, Fire Protection Bureau, at (360) 753-0411.

WSR 00-04-050
NOTICE OF PUBLIC MEETINGS
OFFICE OF THE
INTERAGENCY COMMITTEE
(Salmon Recovery Funding Board)

[Memorandum—January 27, 2000]

The Interagency Committee for Outdoor Recreation (IAC) will meet Thursday, March 9, 2000, beginning at 8:30 a.m. in Room 172 of the Natural Resources Building in Olympia.

The draft agenda for this meeting includes updates on legislative issues, LWCF, and Public Lands Inventory Project. Action items include WWRP Local Parks - 2nd year list adoption, YAF guidelines, and various proposed policy manual updates. There will also be a presentation on the "Balanced Scorecard" and a PRISM demonstration.

If you plan to participate or have materials for committee review, please submit information to IAC no later than February 17, 2000. This will allow for distribution to committee members in a timely fashion.

IAC public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting IAC by February 17 at (360) 902-2637 or TDD (360) 902-1996.

MISC.

WSR 00-04-051
NOTICE OF PUBLIC MEETINGS
JAIL INDUSTRIES BOARD
[Memorandum—January 28, 2000]

2000 BOARD MEETING SCHEDULE

The Jail Industries Board has established its regular board meeting schedule for 2000 as follows:

- February 16 Green Hill School, Chehalis
- June 21 Clark County Jail Work Center, Vancouver
- September 6 Chelan Regional Jail, Wenatchee
- November 29 Regional Justice Center, Kent

All regular meetings run from 10:00 a.m. to 3:00 p.m. For further information, please contact Jill Will, Executive Director, Jail Industries Board at 206 Tenth Avenue S.E., Olympia, WA 98501-1311, phone (360) 586-1534, e-mail jwill@wacounties.org.

WSR 00-04-063
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF AGRICULTURE
(Barley Commission)
[Memorandum—January 26, 2000]

To keep in compliance with the Open Public Meetings Act the Washington Barley Commission is filing the following schedule of the times, dates, and locations of our 2000 scheduled meetings:

Meeting Type	Date	Time
Regular Meeting	March 29, 2000	9:00 a.m.
Annual Meeting	June 28, 2000	9:00 a.m.
Regular Meeting	September 30, 2000	9:00 a.m.
Regular Meeting	December 7, 2000	9:00 a.m.

All of the meetings will be held in the Washington Wheat Commission's Conference Room, West 907 Riverside Avenue, Spokane, WA.

If you have any questions, please call our office at (509) 456-4400.

WSR 00-04-064
NOTICE OF PUBLIC MEETINGS
CASCADIA COMMUNITY COLLEGE
[Memorandum—January 27, 2000]

REVISED

Following is a list of 2000 board meeting dates and locations for Cascadia Community College for publication.

The location has changed for the January - September 2000 meetings. The new location is the Seattle Times Building, Bothell, Washington.

Cascadia Community College
2000 Board of Trustees - Meeting Dates

- Monday, January 10, 2000
- Monday, February 14, 2000
- Monday, March 13, 2000
- Monday, April 10, 2000
- Monday, May 8, 2000
- Monday, June 12, 2000
- Monday, July 10, 2000
- Monday, August 14, 2000
- Monday, September 11, 2000
- Monday, October 9, 2000
- Monday, November 13, 2000
- Monday, December 11, 2000

- Location: January - September, 2000
The Seattle Times Building
19200 120th Avenue N.E.
Bothell, WA 98011
- October - December, 2000
Cascadia Community College
18345 Campus Way N.E.
Bothell, WA 98011

All meetings will begin at 6:30 p.m.

WSR 00-04-065
NOTICE OF PUBLIC MEETINGS
COMMUNITY ECONOMIC
REVITALIZATION BOARD
[Memorandum—January 27, 2000]

At the January 20, 2000, regular Community Economic Revitalization Board (CERB) meeting, the board took action to modify the regular CERB meeting schedule. Following are the schedule revisions after the March 16, 2000, regular CERB meeting. The revised schedule is for the remainder of the 99-01 biennium.

REVISED SCHEDULE
REGULAR CERB MEETINGS

- March 16, 2000 (no change from previous)
- July 20, 2000
- November 16, 2000
- January 18, 2001
- April 19, 2001

Please contact (360) 586-0657 if there are any questions.

MISC.

WSR 00-04-067

AGENDA

DEPARTMENT OF CORRECTIONS

[Filed January 31, 2000, 12:03 p.m.]

Shown below is the Department of Corrections' semi-annual rules development agenda, as required by RCW 34.05.314, for the time period of January 1, 2000, through June 30, 2000. There may be more rule-making activity, not on the agenda, as a result of the reviews being done in accordance with the Governor's Executive Order 97-02.

**DEPARTMENT OF CORRECTIONS
SEMI-ANNUAL RULES DEVELOPMENT AGENDA
1/1/00 THROUGH 6/30/00**

WAC Chapter Number	Purpose of Rule Developed, Amended, or Repealed
Chapter 137-04	Amendment of rules to reflect changes in the department's organizational structure.
Chapter 137-08	Amendment of rules to conform to chapter 42.17 RCW and, specifically, those provisions relating to public records disclosure.
Chapter 137-12A	Repeal of rules relating to one-time impact funds to qualifying political subdivision. Incorporation of rules into new chapter relating to siting of correction facilities.

Chapter 137-28	Development, amendment, and repeal of rules relating to discipline in prisons.
Chapter 137-48	Amendment or rules relating to offender mail.
Chapter 137-52	Amendment or rules relating to escorted leaves of absence for offenders.
Chapter 137-58	Repeal of rules relating to the guidelines for implementation of the State Environmental Policy Act. Incorporation of rules into new chapter relating to siting of correctional facilities.
Chapter 137-60	Amendment of rules relating to furloughs for offenders.
Chapter 137-XX	Development of rules relating to siting of correctional facilities. Consolidation of rules into this chapter that relate to one-time impact funds to qualifying political subdivisions and the implementation of the State Environmental Policy Act.
Chapter 137-XX	Development of rules relating to detainees.
Chapter 137-XX	Development of rules relating to visiting correctional facilities.
Chapter 137-XX	Development of rules to comply with chapter 196, Laws of 1999, the Offender Accountability Act.

Sherri Pardue, Rules Coordinator
Rules, Contracts, and Public Disclosure Section

WSR 00-04-069

AGENDA

DEPARTMENT OF AGRICULTURE

[Filed January 31, 2000, 1:47 p.m.]

Washington State Department of Agriculture Semi-Annual Rules Agenda, January 31, 2000

Chapter	Subject	Contact	Approx. Filing Date
	Plant tagging requirements for horticultural plants	Mary A. Martin Toohey, Assistant Director Laboratory Services Division Phone (360) 902-1907	October 1999
WAC 16-101	Adoption of the updated pasteurized milk ordinance (PMO)	Verne Hedlund, Program Manager Food Safety and Animal Health Division Phone (360) 902-1860	January 2000
WAC 16-200	General pesticide rules relating to pesticide labeling	Ted Maxwell, Program Manager Pesticide Management Division Phone (360) 902-2026	January 2000
WAC 16-202	Exempting Biosolids from fertilizer requirements	Ted Maxwell, Program Manager Pesticide Management Division Phone (360) 902-2026	October 1999
WAC 16-202 WAC 16-200	General pesticide rules relating to chemigation and fertigation	Ann Wick, Program Manager Pesticide Management Division Phone (360) 902-2051	January 2000
WAC 16-212, WAC 16-224, WAC 16-234	Warehouse audit	Julie Sandberg, Assistant Director Consumer and Producer Protection Division Phone (360) 902-1851	December 1999

MISC.

Chapter	Subject	Contact	Approx. Filing Date
WAC 16-213	Miscellaneous agricultural commodity inspection standards	Randy Deike, Program Manager Commodity Inspection Division Phone (360) 902-1921	December 1999
WAC 16-228	Pesticide penalty matrix for violations of the pesticide rules and laws	Cliff Weed, Program Manager Pesticide Management Division Phone (360) 902-2036	October 1999
WAC 16-228	General pesticide rules relating to restrictions on pesticides, seed crops	Ann Wick, Program Manager Pesticide Management Division Manager Phone (360) 902-2051	January 2000
WAC 16-228	General pesticide rules relating to restrictions on pesticide use, signs and records	Cliff Weed, Program Manager Pesticide Management Division Phone (360) 902-2036	January 2000
WAC 16-231	Pesticide applications in Benton, Franklin and Walla Walla counties	Cliff Weed, Program Manager Pesticide Management Division Phone (360) 902-2036	November 1999
WAC 16-316	Seed certification conducted by the Washington State Crop Improvement Association	Julie Sandberg, Assistant Director Consumer and Producer Protection Division Phone (360) 902-1851	June 2000
WAC 16-328	Strawberry Plant Certification	Tom Wessels, Program Manager Laboratory Services Division Phone (360) 902-1984	October 1999
WAC 16-333	Standards for Caneberry Certification	Tom Wessels, Program Manager Laboratory Services Division Phone (360) 902-1984	October 1999
WAC 16-439	Standards of Grades and Packs for Summer and Fall Pears	Jim Quigley, Program Manager Commodity Inspection Division Phone (360) 902-1883	March 2000
WAC 16-442	Standards of Grades and Packs for Winter Pears	Jim Quigley, Program Manager Commodity Inspection Division Phone (360) 902-1883	March 2000
WAC 16-487	Fruit Tree Disease Quarantine	Mary A. Martin Toohey, Assistant Director Laboratory Services Division Phone (360) 902-1907	November 1999
WAC 16-497	Hop Disease Quarantine	Mary A. Martin Toohey, Assistant Director Laboratory Services Division Phone (360) 902-1907	October 1999
WAC 16-570	Production and establishment of districts	Randy Deike, Program Manager Commodity Inspection Division Phone (360) 902-1921	February 2000
WAC 16-573	Canola and rapeseed commission	Walter Swenson, Commission Liaison Agency Operations Division Phone (360) 902-1928	February 2000
WAC 16-621, WAC 16-622, WAC 16-692, WAC 16-694	Commission merchants	Julie Sandberg, Assistant Director Consumer and Producer Protection Division Phone (360) 902-1851	June 2000
WAC 16-663, WAC 16-674	Weights and Measures -Service Agents	Julie Sandberg, Assistant Director Consumer and Producer Protection Division Phone (360) 902-1851	June 2000

MISC.

Chapter	Subject	Contact	Approx. Filing Date
WAC 16-70	Animal Disease Reporting	Dr. Robert Mead, Program Manager Food Safety and Animal Health Division Phone (360) 902-1881	December 1999
WAC 16-74	Livestock Testing - Duties of Owners	Dr. Kathleen Connell, Veterinarian Food Safety and Animal Health Division Phone (360) 902-1835	December 1999
WAC 16-80	Pseudorabies in Swine	Dr. Kathleen Connell, Veterinarian Food Safety and Animal Health Division Phone (360) 902-1835	December 1999

WSR 00-04-072

AGENDA

EMPLOYMENT SECURITY DEPARTMENT

[Filed February 1, 2000, 8:48 a.m.]

Employment Security Department

Semi-Annual Rule-Making Agenda (January 31, 2000 - July 31, 2000)

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Chapter 192-170 WAC	Availability to Accept Work	Juanita Myers (360) 902-9665	CR-101 - 5/97 CR-102 - 9/99 Hearing - 11/99 2nd Hearing - 3/00 CR-103 - 5/00 Effective - 6/00	Adopt rules regarding availability for work provisions for disabled claimants, including those with pregnancy-related disabilities.
Chapter 192-36 WAC	Shared Work	Juanita Myers (360) 902-9665	CR-101 - 4/00 CR-102 - 6/00 Hearing - To be determined CR-103 - 9/00 Effective - 10/00	Amend rules to clarify shared work plan approval criteria; define certain terms contained in the statute; and clarify the employees eligible for participation in an approved plan.
Chapter 192-210 WAC	Special Category Occupations	Juanita Myers (360) 902-9665	CR-101 - 11/99 CR-102 - 5/00 Hearing - To be determined CR-103 - 7/00 Effective - 8/00	Adopt rules for individuals who work or worked for a temporary services or employee leasing agency. These will include policies related to job separations, availability requirements, and suitable work.
Chapter 192-270 WAC	Additional Training Benefits	Juanita Myers (360) 902-9665	CR-101 - 2/00 CR-102 - 4/00 Hearing - To be determined CR-103 - 7/00 Effective - 8/00	Adopt rules implementing new legislation providing a period of additional benefits for certain dislocated workers while in training (if adopted by the legislature). <i>Note: Emergency rules will probably be required.</i>
Chapter 192-230 WAC	Recovery of Overpayments	Juanita Myers (360) 902-9665	CR-101 - 2/00 CR-102 - 4/00 Hearing - To be determined CR-103 - 6/00 Effective - 7/00	Adopt rules clarifying the conditions under which unpaid overpayments will be referred to a collection agency, and addressing how collection fees will be assessed.
Chapter 192-340 WAC	Audits and Technical Assistance	George Mante (360) 902-9642	CR-101 - 7/99 CR-102 - 8/99 Hearing - 12/99 CR-103 - 1/00 Effective - 2/00	Adopt a new rule clarifying the procedures an employee must follow in expanding an audit. It will also outline the post audit interview where audit exceptions and future reporting requirements must be discussed with the entity being audited.

Barney Hilliard
Rules Coordinator

WSR 00-04-073**NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND
COMMUNITY COLLEGE**

[Memorandum—January 31, 2000]

As part of the *Students of Color Conference* being held on the college campus, the board of trustees of Community College District 24 will hold a special meeting on Thursday, February 3, 2000, at 5:30 p.m. to 8:00 p.m., in the Percival Room, Building 27.

No action will be taken.

If you have any questions, please contact 754-7711 ext. 202.

WSR 00-04-076**DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed February 1, 2000, 12:57 p.m.]

**L&I produces table of contents/indexes to worker safety
and health regulations**

The Department of Labor and Industries has produced a table of contents and indexes to assist employers and workers to navigate the standards and regulations that protect Washington's 2.3 million workers from workplace injury and illness.

The effort included an index for each of three major regulations. They are:

- The general safety and health standards that applies to all Washington workplaces, chapter 296-24 WAC.
- The general occupational health standard, chapter 296-62 WAC.
- The safety standard for the construction industry, chapter 296-155 WAC.

These alphabetical listing will help employers and workers locate information contained in approximately 3,000 pages of safety and health rules.

In addition, L&I has produced a table of contents for chapter 296-24 WAC, listing the contents of each chapter of the standard that applies to all Washington workplaces.

Printed copies of the table of contents and the indexes will be distributed to employers who are listed on the agency's notification directories. In addition, the information will be posted to L&I's Internet website at www.lni.wa.gov/wisha/innovations and can be downloaded from there.

The completion of the table of contents and indexes marks the first phase of the agency's legislatively approved innovations in regulatory improvement project. This multi-year project will completely rewrite and reorganize the agency's worker safety and health regulations.

Questions may be directed to Cindy Ireland, WISHA Standards Project Manager, at (360) 902-5522.

WSR 00-04-077**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed February 1, 2000, 2:04 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: 00-01 MAA Numbered Memorandum.
Subject: New claims capture and imaging system (CCIS).

Effective Date: January 1, 2000.

Document Description: The Medical Assistance Administration (MAA) has a new claims scanning/imaging system, known as Scan-Optics ImageEMC++. This system is designed to maximize effective and accurate automatic processing of paper claims and related documents. Providers and billing services can help assure prompt and accurate OCR translation of their claims by following the guidelines listed in this numbered memorandum when preparing their HCFA-1500 claim forms for billing.

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) 586-2337, TDD 1-800-848-5429, fax (360) 753-7315, e-mail <mailto:MYERSEA@dshs.wa.gov>.

January 28, 2000

Leslie Saeger

Regulatory Improvement
Project Manager

WSR 00-04-078**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed February 1, 2000, 2:06 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: 00-02 MAA Numbered Memorandum.
Subject: Fee increase for pap smears (RBRVS providers).

Effective Date: January 1, 2000.

Document Description: Effective with dates of service on or after January 1, 2000, the Medical Assistance Administration increased the maximum allowable fees (CPT codes 88147, 88150-88154, 88164-88167 and HCPCS code P3000) for pap smears to match Medicare's maximum allowable. Several page replacement for MAA's Physician-Related Services Billing Instructions (RBRVS) have also been included with this numbered memorandum due to printing errors in 99-64.

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) 586-2337,

TDD 1-800-848-5429, fax (360) 753-7315, e-mail
mailto:MYERSEA@dshs.wa.gov.

January 28, 2000
Leslie Saeger
Regulatory Improvement
Project Manager

Subject: Fee increase for pap smears (hospital OP providers).

Effective Date: January 1, 2000.

Document Description: Effective with dates of service on or after January 1, 2000, the Medical Assistance Administration increased the maximum allowable fees (CPT codes 88147, 88150-88154, 88164-88167 and HCPCS code P3000) for pap smears to match Medicare's maximum allowable.

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) 586-2337, TDD 1-800-848-5429, fax (360) 753-7315, e-mail
mailto:MYERSEA@dshs.wa.gov.

January 28, 2000
Leslie Saeger
Regulatory Improvement
Project Manager

WSR 00-04-079

**INTERPRETIVE OR POLICY STATEMENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed February 1, 2000, 2:08 p.m.]

DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: 00-03 MAA Numbered Memorandum.

WSR 00-04-082

AGENDA

DEPARTMENT OF ECOLOGY

[Filed February 1, 2000, 3:39 p.m.]

**Department of Ecology
Semi-annual Rule Agenda
January - June 2000**

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/Sections to Amend
Air Quality						
173-406 AO# 99-09, 1/98	Acid Rain Regulation	Peter Lyon, (360) 407-7530, plyo461@ecy.wa.gov	Jun-99	Mar-00	Sept.-00	Revisions to conform to EPA requirements.
173-400, 173-405, 173-410, 173-433, 173-434 AO# 99-07, 7/96	Emissions Standards for Solid Waste Incinerators; General regulation for air pollution sources; Kraft Pulp-ing Mills; Sulfite Pulping Mills; Solid Fuel Burning Device Standards	Peter Lyon, (360) 407-7530, plyo461@ecy.wa.gov and Tom Todd, (360) 407-7528, ttod461@ecy.wa.gov	3/22/99	Jun-00	Dec-00	Hog Fuel Boiler RACT; define terms related to wood derived fuels; reorganize state incinerator rule.
173-400 AO# 99-06, 7/98	General Regulation for Air Pollution Sources	Elena Guilfoil, (360) 407-6855, egui461@ecy.wa.gov	4/21/99	Mar-00	Sept.-00	This action focuses on 2 air quality programs located in chapter 173-400 WAC. The prevention of significant deterioration or PSD program which addresses major new air pollution sources; and the best available retrofit technology provisions.
173-xxx (new ch.), or 173-460, 173-400 AO# 99-02, 1/98	Controls for New Sources of Toxic Air Pollution, General Regulation for Air Pollution Sources	Steve Cross, (360) 407-6875, strc461@ecy.wa.gov	Aug-99	Nov-00	Feb-01	Incorporate de minimus levels; Tier 2 light; consolidate NSR processes from chapters 173-400 and 173-460 WAC.

MISC.

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/Sections to Amend
173-415, 173-481 AO# 98-09, 7/96	Primary Aluminum Plants, Ambient Fluoride Standard	Carol Piening, (360) 407-6858, cpie461@ecy.wa.gov	4/30/99	May-00	Oct-00	Determine if MACT equates to RACT; address fluoride monitoring requirement.
173-400 AO# 98-27, 7/98	General Regulation for Air Pollution Sources	Peter Lyon, (360) 407-7530, plyo461@ecy.wa.gov	2/3/99	3/30/00	9/15/00	Update NESHAP and NSPS delegations; (including medical waste combustors) revise definition of VOCs.
173-425 AO# 97-39, 7/97	Open Burning	Bruce Smith, (360) 407-6899, brsm461@ecy.wa.gov	10/20/97	3/23/99 and 9/9/99	Feb-00	Incorporate state statutory changes; streamline program.
Hazardous Waste & Toxic Reduction						
173-303 AO# 99-01, 1/99	Dangerous Waste Regulations	Patricia Hervieux, (360) 407-6756, pher461@ecy.wa.gov	4/30/99 & 11/17/99	Jan-00	Apr-00	Federal hazardous waste regulations will be incorporated, exemption for steel mill flue dust used as fertilizer will be deleted, transfer station requirements will be modified, lamps will be added as universal waste, and other changes.
Shorelands & Environmental Assistance						
173-16, 173-26 AO# 95-17a, 7/97	State Master Program Approval/Amendment Procedures (173-26) Shoreline Management Act Guidelines for Development of Master Programs	Peter Skowlund, (360) 407-6522, psko461@ecy.wa.gov	Nov-99	Apr-00	Jul-00	Update and replace chapter 173-16 WAC, Shoreline Management Act guidelines for development of master programs; to implement regulatory reform measures integrating shorelines, growth management and related statutes; to create minimum requirements for local shoreline master programs which regulate shoreline development; to protect and restore fish and wildlife habitat; including salmon, within shorelines of.
173-700 AO# 98-26, 1/99	Compensatory Wetland Mitigation Banks	Lauren Driscoll, (360) 407-6861, ldri461@ecy.wa.gov	Jan-99	Jun-00	Sept.-00	Develop procedures for the operation, monitoring and implementation of wetland banks.
173-158, 7/99	Floodplain Management	Ted Olson, (509) 456-2862, tols461@ecy.wa.gov	May-00	Aug-00	Jan-01	Amend WAC to implement ESHB 1963 which allows reconstruction in floodways under certain circumstances.
197-11, AO# 95-16, 7/97	SEPA Rules	Barbara Ritchie, (360) 407-6922, brit@ecy.wa.gov	Dec-95	Aug-00	Sept.-00	Revise environmental checklist.
197-11 AO# 97-02, 7/97	SEPA Rules	Barbara Ritchie, (360) 407-6922, brit@ecy.wa.gov	Jan-97	Oct-00	Dec-00	Revise categorical exemptions allowed under the state Environmental Policy Act.
Solid Waste & Financial Assistance						
173-304 AO# 99-24, 7/97	Minimum Functional Standards for Solid Waste Handling	Brian Farmer, (509) 456-6386, bfar461@ecy.wa.gov	Nov-99	Jun-00	Dec-00	Update approaches to nonmunicipal solid waste management. Respond to state legislation aimed at removing impediments to recycling.
Spill Prevention, Preparedness & Response						
317-21, 317-31 AO# 99-23, 7/99	Tank Vessel Oil Spill Prevention Plans, Cargo and Passenger Vessels Substantial Risk	Jeff Fishel, (360) 407-7504, jfis461@ecy.wa.gov	Sept.-99	Jul-00	Nov-00	Correct technical problems (spelling, citation, declination, etc.), clarify definitions, update requirements to meet changes in federal and international law, and clarify current requirements.

MISC.

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/Sections to Amend
317-10, 173-181, AO# N/A, 7/99	Oil Spill Contingency Plans and Response Contractor Standards	Roy Robertson, (360) 407-7202, rrob461@ecy.wa.gov	Sept.-00	Dec.-01	Feb-02	Update plan requirements, mandate incident command systems, incorporate planning standards, and update primary response contractor standards.
317-10 AO# 99-23, 7/99	Oil Spill Contingency Plans and Response Contractor Standards	Jeff Fishel, (360) 407-7504, jfis461@ecy.wa.gov	Sept.-99	Sept.-00	Dec-00	Implement new or enhanced measures to improve the safety of marine transportation, and response to vessel emergencies and oil spills, for Washington waters in the Strait of Juan de Fuca and Northern Puget Sound as recommended by the North Puget Sound Risk Assessment Panel.
Toxic Cleanup						
173-340, AO# 97-09, 7/97	Model Toxic Control Act (MTCA) Cleanup	Trish Akana, (360) 407-7230, taka461@ecy.wa.gov	May-97	Nov-99	May-00	Site specific assessment, petroleum cleanup method, ecological based cleanup standards, remedy selections, cleanup action laws, areawide contamination and brownfields, public participation in cleanup, and quality assurance. To implement recommendations from the MTCA Policy Advisory Committee (a twenty-two member legislative task force charged with making statute and rule changes.
173-321, AO# 97-09, 7/97	Public Participation Grants	Trish Akana, (360) 407-7230, taka461@ecy.wa.gov	May-97	Nov-99	May-00	Implement \$60,000 grant program. Recommendation from the MTCA Policy Advisory Committee (See chapter 173-340 WAC).
173-322, AO# 97-09, 7/97	Remedial Action Grants	Trish Akana, (360) 407-7230, taka461@ecy.wa.gov	May-97	Nov-99	May-00	Implement brownfields grant program. Recommendation from the MTCA Policy Advisory Committee (See chapter 173-340 WAC).
Water Resources						
173-xxx 1/00	Seawater Intrusion Rule	Dave Nazy, (425) 649-7081, dnaz461@ecy.wa.gov	6/1/00			Address seawater intrusion.
173-170 1/00	Agriculture Water Supply Facilities	Ray Newkirk, (360) 407-6630	6/1/00			Amend rule to address funding and conservation issues.
173-537 1/00	Water Resources Management for the Yakima River Basin	Thom Lufkin, (360) 407-6631, tlhw461@ecy.wa.gov	10/20/99	Jun-00		Withdraw ground water from further appropriation, per MOA with BoR and Yakama Nation.
508-64 1/00	Water Use Metering	Jeff Marti, (360) 407-6636, jema461@ecy.wa.gov	3/1/00	Jun-00	Oct-00	Amend or replace rule to address metering requirements (RCW 90.03.360).
173-152 1/00	Water Rights Processing Priorities	Steve Hirschey, (425) 649-7066, shir461@ecy.wa.gov	Jun-00			Possible amendment to create additional prioritization criteria for application processing.

MISC.

WAC Chapter	Chapter Title	Contact Person	CR-101 Filing Date	CR-102 Filing Date	CR-103 Filing Date	Scope of Changes/Sections to Amend
Water Quality						
173-201A AO# 98-20, 7/98	Surface Water Quality Standards for the State of Washington	Mark Hicks, (360) 407-6477, mhic461@ecy.wa.gov	2/16/1999	4/1/00	Aug-00	A. Develop regulatory language to guide the implementation of a water quality antidegradation policy. This would focus on protecting water quality standards, implementing technology-based pollution control requirements, and ensuring degradation that is allowed is in the overriding public interest. It would also include provisions to set aside waters constituting an outstanding national resource from all degradation. B. Look at the way beneficial uses are assigned for protection to waterbodies under the water quality standards.
173-95A, 1/00 173-98	Uses and Limitations of Centennial Clean Water Funds Uses and Limitations of the Water Pollution Control Revolving Funds	Tim Hilliard, (360) 407-6429, thil461@ecy.wa.gov	5/1/00	8/1/00	12/1/00	that impact the approving and denying of funds: <ul style="list-style-type: none"> • Major rating categories and the weights assigned to them • Grant and loan ceiling amounts and match requirements • Hardship criteria and determination • Project/project element eligibility for grants, loans • Interest rates and terms for loans • Determining existing need and capacity for growth • Eligibility of previously funded objectives • Appeal process • Emergency funding process, definitions, funding sources • Make minor changes to chapter 173-98 WAC to coordinate with update to chapter 173-95A WAC.
173-98, 1/00	Uses and Limitations of the Water Pollution Control Revolving Fund	Tim Hilliard, (360) 407-6429, thil461@ecy.wa.gov	N/A	Mar-00	May-00	Make minor changes to reflect new, lower interest rates and more flexibility to lower interest rates in the future.

MISC.

WSR 00-04-084A

NOTICE OF PUBLIC MEETINGS

SPOKANE INTERCOLLEGIATE

RESEARCH AND TECHNOLOGY INSTITUTE

[Memorandum—February 1, 2000]

2000 SIRTI Board Meeting Dates

Unless otherwise indicated, all SIRTI board meetings occur from 3:00 p.m. - 5:00 p.m. in the SIRTI 4th Floor Board Room on the date shown below:

January 20, 2000

February 17, 2000

March 16, 2000

April 20, 2000

May 18, 2000

June 15, 2000

July 20, 2000

August 17, 2000

September 21, 2000

October 19, 2000

November 16, 2000

December 21, 2000

WSR 00-04-089

AGENDA

INSURANCE COMMISSIONER'S OFFICE

[Filed February 2, 2000, 9:19 a.m.]

Semi-Annual Rules Agenda

In accordance with RCW 34.05.314, Insurance Commissioner Deborah Senn states that the on-going rule makings stated below are currently under consideration. No new rule makings are currently anticipated in this reporting period with the following possible exceptions; rules to implement the 1999 Holocaust legislation and any rules that may be required or desired to implement legislation passed during the 2000 Legislative session.

- R 98-2 Cost of Capital for Property and Casualty Rate Filings. Methods will be considered to reorganize rules to increase the effectiveness and to simplify the compliance and enforcement of process.
- 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 98-18 Out-of-State Groups. Update, 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.
- R 99-1 Annuity and Deposit Fund Disclosure Regulation. Update regulatory scheme and contemplate possible changes to better protect Washington consumers.
- R 99-6 Triple X, Valuation of Life Insurance Policies. Adopt the model regulation on valuation of life insurance policies that has been adopted by the National Association of Insurance Commissioners. The purpose of the model regulation is to provide a better method of ensuring adequate and realistic reserves for life insurance policies.
- 99-7 Uniform Claims Procedures. Consider new rules to improve efficiency and reduce costs through the use of uniform claim forms and other common administrative procedures for health insurers. The Commissioner will oversee a process facilitated by the Community Health Information Technology Alliance (CHITA) to develop and recommend the use of uniform processes for the administrative functions of health carriers. These rules may include a direction that carriers use forms and procedures to reduce duplication among carriers such as use of CHITA's "Standard

Referral Form." Among the topics for consideration are uniform billing and claims forms, referral forms, authorization forms, and audit standards.

Questions or comments regarding this agenda or any ongoing or possible rule making should be directed to Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, phone (360) 664-3784, fax (360) 664-2782, e-mail KacyB@oic.wa.gov.

This agenda is submitted by Jon Hedegard, Rules Coordinator, Office of the Insurance Commissioner.

WSR 00-04-098

DEPARTMENT OF ECOLOGY

[Filed February 2, 2000, 11:00 a.m.]

NOTICE OF PUBLIC HEARINGS

Including Revised Puget Sound Clean Air Agency Regulations

In the Washington State Implementation Plan

The Washington State Department of Ecology (ecology) is conducting two public hearings to receive comments on including amended Puget Sound Clean Air Agency (PSCAA) regulations in the state implementation plan (SIP). The SIP is a state-wide plan for meeting federal health-based air quality standards. The hearings will be held consecutively at 9:00 a.m. on March 9, 2000, at the PSCAA offices located at 110 Union Street, #500, Seattle, WA.

The first hearing will be on whether ecology should adopt PSCAA amendments. PSCAA adopted amendments to its Regulation I at its March 11, July 8, September 9, and December 9, 1999, board meetings. Amendments to Regulation II were adopted at its July 8, September 9, and December 9, 1999, board meetings. Amendments to Regulation III were adopted at its September 9 and December 9, 1999, board meetings. The purpose of these amendments was to clarify language and make administrative changes.

The second hearing will be on whether ecology should adopt proposed PSCAA amendments following the PSCAA adoption hearing. At its March 9, 2000, board meeting, PSCAA is expected to adopt amendments deleting Regulation II, Section 3.07 - Petroleum Solvent Dry Cleaning Systems, because there are no longer any petroleum solvent dry cleaning systems in PSCAA's jurisdiction that use more than 15,000 gallons. PSCAA is also expected to adopt an amendment to Regulation III, Appendix A - Acceptable Source Impact Levels. The purpose of this amendment is to clarify the list of chemicals in Appendix A and their EPA hazardous air pollutant (HAP) list designations.

For ecology's purposes, comments at the hearings must be limited to including PSCAA's amendments in the SIP. Written comments must be postmarked no later than February 28, 2000, and should be sent to Fred Greef, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600.

For more information on the content of the amendments prior to the hearings, please contact Dave Kircher at (206) 689-4050. If you have special accommodation needs, please contact the agency receptionist at Puget Sound Clean Air Agency, (206) 689-4010 (voice), or (800) 833-6388 (TDD only) by March 2, 2000.

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	PREP	00-03-032	16-228-1385	PREP	00-03-080	173-303-070	AMD-P	00-02-081
4-25-830	PREP	00-03-033	16-228-1400	PREP	00-03-078	173-303-071	AMD-P	00-02-081
16-70-001	REP-P	00-03-070	16-228-1500	PREP	00-03-079	173-303-073	AMD-P	00-02-081
16-70-005	AMD-P	00-03-070	16-228-1520	PREP	00-03-079	173-303-077	AMD-P	00-02-081
16-70-010	AMD-P	00-03-070	16-228-1540	PREP	00-03-080	173-303-100	AMD-P	00-02-081
16-70-030	REP-P	00-03-070	16-228-1545	PREP	00-03-079	173-303-110	AMD-P	00-02-081
16-74-001	REP-P	00-03-069	16-228-1580	PREP	00-03-080	173-303-120	AMD-P	00-02-081
16-74-005	NEW-P	00-03-069	16-228-2000	PREP	00-03-077	173-303-160	AMD-P	00-02-081
16-74-010	AMD-P	00-03-069	16-230	PREP	00-04-020	173-303-170	AMD-P	00-02-081
16-74-020	AMD-P	00-03-069	16-230	PREP	00-04-021	173-303-180	AMD-P	00-02-081
16-74-030	AMD-P	00-03-069	16-230	PREP	00-04-022	173-303-190	AMD-P	00-02-081
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16-80-040	AMD-P	00-03-068	132G-276-050	AMD-P	00-02-074	173-303-380	AMD-P	00-02-081
16-80-045	AMD-P	00-03-068	132G-276-060	AMD-P	00-02-074	173-303-380	AMD-P	00-02-081
16-80-047	AMD-P	00-03-068	132G-276-080	AMD-P	00-02-074	173-303-390	AMD-P	00-02-081
16-80-050	REP-P	00-03-068	132G-276-090	AMD-P	00-02-074	173-303-400	AMD-P	00-02-081
16-101	PREP	00-02-077	132G-276-100	AMD-P	00-02-074	173-303-505	AMD-P	00-02-081
16-200-695	PREP	00-03-076	132G-276-110	AMD-P	00-02-074	173-303-510	AMD-P	00-02-081
16-202-1000	PREP	00-03-076	132G-276-120	AMD-P	00-02-074	173-303-515	AMD-P	00-02-081
16-202-2000	PREP	00-03-076	132G-276-130	AMD-P	00-02-074	173-303-520	AMD-P	00-02-081
16-228-1010	PREP	00-03-080	132G-276-130	AMD-P	00-02-074	173-303-522	AMD-P	00-02-081
16-228-1040	PREP	00-03-080	132G-276-900	AMD-P	00-02-074	173-303-573	AMD-P	00-02-081
16-228-1150	PREP	00-03-080	137-28	PREP	00-02-070	173-303-578	NEW-P	00-02-081
16-228-1200	PREP	00-03-080	139-01	PREP	00-04-048	173-303-578	NEW-P	00-02-081
16-228-1200	PREP	00-03-080	139-05	PREP	00-04-048	173-303-600	AMD-P	00-02-081
16-228-1220	PREP	00-03-077	139-05	PREP	00-04-048	173-303-610	AMD-P	00-02-081
16-228-1230	PREP	00-03-080	139-10	PREP	00-04-048	173-303-620	AMD-P	00-02-081
16-228-1240	PREP	00-03-077	139-10	PREP	00-04-048	173-303-620	AMD-P	00-02-081
16-228-1250	PREP	00-03-077	139-25	PREP	00-04-048	173-303-630	AMD-P	00-02-081
16-228-1270	PREP	00-03-080	173-98-030	AMD-XA	00-04-085	173-303-640	AMD-P	00-02-081
16-228-1300	PREP	00-03-077	173-303-010	AMD-P	00-02-081	173-303-640	AMD-P	00-02-081
16-228-1320	PREP	00-03-077	173-303-016	AMD-P	00-02-081	173-303-645	AMD-P	00-02-081
16-228-1380	PREP	00-03-080	173-303-040	AMD-P	00-02-081	173-303-650	AMD-P	00-02-081
			173-303-045	AMD-P	00-02-081	173-303-680	AMD-P	00-02-081
			173-303-060	AMD-P	00-02-081	173-303-690	AMD-P	00-02-081

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
173-303-691	AMD-P	00-02-081	220-52-071	AMD	00-03-042	246-243-030	AMD-P	00-04-088
173-303-692	NEW-P	00-02-081	220-52-073	AMD	00-03-042	246-243-042	NEW-P	00-04-088
173-303-693	NEW-P	00-02-081	220-52-07300Q	REP-E	00-03-006	246-243-044	NEW-P	00-04-088
173-303-800	AMD-P	00-02-081	220-52-07300R	NEW-E	00-03-006	246-243-047	NEW-P	00-04-088
173-303-803	NEW-P	00-02-081	220-52-07300R	REP-E	00-03-006	246-243-050	AMD-P	00-04-088
173-303-804	AMD-P	00-02-081	220-52-07300R	REP-E	00-03-044	246-243-060	AMD-P	00-04-088
173-303-805	AMD-P	00-02-081	220-52-07300S	NEW-E	00-03-044	246-243-080	AMD-P	00-04-088
173-303-806	AMD-P	00-02-081	220-52-07300S	REP-E	00-03-044	246-243-090	AMD-P	00-04-088
173-303-807	AMD-P	00-02-081	220-52-07300S	REP-E	00-04-013	246-243-100	AMD-P	00-04-088
173-303-810	AMD-P	00-02-081	220-52-07300T	NEW-E	00-04-013	246-243-110	AMD-P	00-04-088
173-303-830	AMD-P	00-02-081	220-57-34500A	NEW-E	00-03-007	246-243-120	AMD-P	00-04-088
173-303-840	AMD-P	00-02-081	220-57-34500A	REP-E	00-03-007	246-243-130	AMD-P	00-04-088
173-303-9904	AMD-P	00-02-081	230-02-108	AMD-P	00-04-099	246-243-140	AMD-P	00-04-088
173-303-9907	AMD-P	00-02-081	230-02-123	AMD-P	00-04-099	246-243-141	NEW-P	00-04-088
180-27-032	AMD	00-04-007	230-02-183	AMD-P	00-04-099	246-243-150	AMD-P	00-04-088
180-29-068	NEW	00-04-008	230-02-380	AMD-W	00-02-067	246-243-160	AMD-P	00-04-088
180-51-063	NEW	00-04-047	230-08-080	AMD-P	00-04-099	246-243-170	AMD-P	00-04-088
180-51-064	NEW	00-04-047	230-08-100	REP-P	00-04-099	246-243-180	AMD-P	00-04-088
180-52-041	NEW	00-03-046	230-08-105	AMD-P	00-04-099	246-243-190	AMD-P	00-04-088
180-78A-010	AMD	00-03-049	230-12-050	AMD-P	00-04-099	246-243-195	AMD-P	00-04-088
180-78A-505	AMD	00-03-049	230-12-078	AMD-P	00-04-099	246-243-200	AMD-P	00-04-088
180-78A-510	AMD	00-03-049	230-20-110	REP-P	00-04-099	246-243-203	NEW-P	00-04-088
180-78A-515	AMD	00-03-049	230-20-120	REP-P	00-04-099	246-243-210	REP-P	00-04-088
180-78A-520	AMD	00-03-049	230-20-220	AMD-P	00-04-099	246-243-220	AMD-P	00-04-088
180-78A-525	AMD	00-03-049	230-20-243	AMD-P	00-04-099	246-243-230	AMD-P	00-04-088
180-78A-530	AMD	00-03-049	230-20-244	AMD-P	00-04-099	246-243-250	NEW-P	00-04-088
180-78A-535	AMD	00-03-049	232-12-011	AMD	00-04-017	246-252-001	AMD-P	00-04-088
180-78A-540	AMD	00-03-049	232-12-014	AMD	00-04-017	246-252-030	AMD-P	00-04-088
180-79A-006	AMD	00-03-048	232-12-257	AMD-W	00-02-066	246-254-150	AMD-P	00-04-088
180-79A-007	AMD	00-03-048	232-12-31500G	NEW-E	00-04-014	246-338-001	AMD-P	00-03-073
180-79A-130	AMD	00-03-048	232-28-02201	AMD	00-04-017	246-338-010	AMD-P	00-03-073
180-79A-145	AMD	00-03-048	232-28-02202	AMD	00-04-017	246-338-020	AMD-P	00-03-073
180-79A-206	AMD	00-03-048	232-28-02203	AMD	00-04-017	246-338-022	NEW-P	00-03-073
180-79A-250	AMD	00-03-048	232-28-02204	AMD	00-04-017	246-338-024	NEW-P	00-03-073
180-79A-257	AMD	00-03-048	232-28-02205	AMD	00-04-017	246-338-026	NEW-P	00-03-073
180-79A-260	AMD	00-03-050	232-28-02206	AMD	00-04-017	246-338-028	NEW-P	00-03-073
196-31-010	NEW-P	00-04-059	232-28-02220	AMD	00-04-017	246-338-028	NEW-P	00-03-073
196-31-020	NEW-P	00-04-059	232-28-02240	AMD	00-04-017	246-338-030	REP-P	00-03-073
196-31-030	NEW-P	00-04-059	232-28-24102	REP	00-04-017	246-338-040	AMD-P	00-03-073
196-31-040	NEW-P	00-04-059	232-28-255	REP	00-04-017	246-338-050	AMD-P	00-03-073
196-31-050	NEW-P	00-04-059	232-28-26000A	NEW-E	00-03-025	246-338-060	AMD-P	00-03-073
196-31-060	NEW-P	00-04-059	232-28-261	REP	00-04-017	246-338-070	AMD-P	00-03-073
196-31-070	NEW-P	00-04-059	232-28-262	REP	00-04-017	246-338-080	AMD-P	00-03-073
204-24-050	AMD	00-03-081	232-28-263	REP	00-04-017	246-338-090	AMD-P	00-03-073
204-38-030	AMD	00-03-023	232-28-269	REP	00-04-017	246-338-100	AMD-P	00-03-073
204-38-040	AMD	00-03-023	232-28-270	REP	00-04-017	246-338-110	AMD-P	00-03-073
204-38-050	AMD	00-03-023	232-28-271	AMD	00-04-017	246-780-001	AMD-P	00-03-074
208-440	PREP	00-04-074	232-28-271	AMD	00-04-017	246-780-010	AMD-P	00-03-074
208-440-010	PREP	00-04-074	232-28-275	AMD	00-04-017	246-780-020	AMD-P	00-03-074
208-440-020	PREP	00-04-074	232-28-277	NEW	00-04-017	246-780-022	NEW-P	00-03-074
208-440-040	PREP	00-04-074	232-28-61900D	NEW-E	00-03-041	246-780-025	NEW-P	00-03-074
208-440-050	PREP	00-04-074	232-28-61900D	REP-E	00-03-041	246-780-028	NEW-P	00-03-074
210-01-120	AMD-P	00-03-040	232-28-61900D	REP-E	00-03-055	246-780-030	AMD-P	00-03-074
220-32-05100R	NEW-E	00-04-071	232-28-61900E	NEW-E	00-03-055	246-780-040	AMD-P	00-03-074
220-32-05100R	REP-E	00-04-071	232-28-61900E	REP-E	00-03-055	246-780-050	AMD-P	00-03-074
220-44-05000A	NEW-E	00-04-041	246-220-007	AMD-P	00-04-088	246-780-060	AMD-P	00-03-074
220-44-05000Z	REP-E	00-04-041	246-220-010	AMD-P	00-04-088	246-780-070	REP-P	00-03-074
220-52-04000Q	REP-E	00-04-084	246-221-020	AMD-P	00-04-088	246-808-700	REP-XR	00-04-087
220-52-04000R	NEW-E	00-04-084	246-235-080	AMD-P	00-04-088	246-810-600	NEW	00-03-075A
220-52-04600U	NEW-E	00-04-084	246-235-084	NEW-P	00-04-088	246-810-610	NEW	00-03-075A
220-52-04600V	REP-E	00-04-084	246-235-086	NEW-P	00-04-088	246-810-620	NEW	00-03-075A
220-52-06900A	NEW-E	00-04-015	246-235-090	AMD-P	00-04-088	246-810-630	NEW	00-03-075A
			246-243-020	AMD-P	00-04-088	246-810-640	NEW	00-03-075A

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-810-650	NEW	00-03-075A	246-976-320	AMD-P	00-03-075	296-30-095	NEW	00-03-056
246-810-660	NEW	00-03-075A	246-976-330	AMD-P	00-03-075	296-30-100	NEW	00-03-056
246-841-400	PREP	00-03-072	246-976-340	AMD-P	00-03-075	296-30-105	NEW	00-03-056
246-841-410	PREP	00-03-072	246-976-350	REP-P	00-03-075	296-30-120	AMD	00-03-056
246-841-420	PREP	00-03-072	246-976-370	REP-P	00-03-075	296-30-130	AMD-P	00-02-091
246-841-430	PREP	00-03-072	246-976-390	AMD-P	00-03-075	296-30-170	AMD	00-03-056
246-841-440	PREP	00-03-072	246-976-400	AMD-P	00-03-075	296-30-180	AMD	00-03-056
246-841-450	PREP	00-03-072	246-976-420	AMD-P	00-03-075	296-31-012	AMD-P	00-02-091
246-841-460	PREP	00-03-072	246-976-430	AMD-P	00-03-075	296-31-020	REP-P	00-02-091
246-841-470	PREP	00-03-072	246-976-440	REP-P	00-03-075	296-31-030	AMD	00-03-056
246-841-480	PREP	00-03-072	246-976-450	REP-P	00-03-075	296-31-035	NEW	00-03-056
246-841-490	PREP	00-03-072	246-976-890	AMD-P	00-03-075	296-31-045	NEW	00-03-056
246-841-500	PREP	00-03-072	246-976-910	AMD-P	00-03-075	296-31-050	REP	00-03-056
246-841-510	PREP	00-03-072	246-976-920	AMD-P	00-03-075	296-31-055	NEW	00-03-056
246-976-001	AMD-P	00-03-075	246-976-930	AMD-P	00-03-075	296-31-056	NEW	00-03-056
246-976-010	AMD-P	00-03-075	246-976-940	AMD-P	00-03-075	296-31-057	NEW	00-03-056
246-976-020	REP-P	00-03-075	246-976-950	AMD-P	00-03-075	296-31-058	NEW	00-03-056
246-976-021	NEW-P	00-03-075	246-976-960	AMD-P	00-03-075	296-31-070	AMD	00-03-056
246-976-025	REP-P	00-03-075	246-976-970	AMD-P	00-03-075	296-31-074	NEW	00-03-056
246-976-030	REP-P	00-03-075	246-976-990	AMD-P	00-03-075	296-31-090	REP	00-03-056
246-976-031	NEW-P	00-03-075	251-01-345	AMD-P	00-04-053	296-62-051	NEW-C	00-04-075
246-976-035	REP-P	00-03-075	251-08-115	AMD-P	00-04-052	296-62-05101	NEW-C	00-04-075
246-976-040	REP-P	00-03-075	251-09-080	AMD-P	00-04-052	296-62-05103	NEW-C	00-04-075
246-976-041	NEW-P	00-03-075	251-20-020	AMD-P	00-04-053	296-62-05105	NEW-C	00-04-075
246-976-045	REP-P	00-03-075	251-20-030	AMD-P	00-04-053	296-62-05110	NEW-C	00-04-075
246-976-050	REP-P	00-03-075	251-23-040	AMD-P	00-04-052	296-62-05120	NEW-C	00-04-075
246-976-055	REP-P	00-03-075	260-34-030	AMD-P	00-03-088	296-62-05122	NEW-C	00-04-075
246-976-060	REP-P	00-03-075	260-34-080	AMD-P	00-03-088	296-62-05130	NEW-C	00-04-075
246-976-065	REP-P	00-03-075	260-34-090	AMD-P	00-03-088	296-62-05140	NEW-C	00-04-075
246-976-070	REP-P	00-03-075	260-34-100	AMD-P	00-03-088	296-62-05150	NEW-C	00-04-075
246-976-075	REP-P	00-03-075	260-34-140	AMD-P	00-03-088	296-62-05160	NEW-C	00-04-075
246-976-076	REP-P	00-03-075	260-34-150	AMD-P	00-03-088	296-62-05170	NEW-C	00-04-075
246-976-077	REP-P	00-03-075	260-40-100	AMD-P	00-03-089	296-62-05172	NEW-C	00-04-075
246-976-080	REP-P	00-03-075	260-52-060	AMD-P	00-03-091	296-62-05174	NEW-C	00-04-075
246-976-085	REP-P	00-03-075	260-70-700	AMD-P	00-03-092	296-62-05176	NEW-C	00-04-075
246-976-110	REP-P	00-03-075	260-75-020	NEW-P	00-03-090	296-155	PREP	00-04-002
246-976-120	REP-P	00-03-075	260-75-030	NEW-P	00-03-090	308-56A-450	AMD	00-04-046
246-976-140	REP-P	00-03-075	260-88-010	AMD-P	00-03-093	308-56A-455	AMD	00-04-046
246-976-141	NEW-P	00-03-075	275-35	PREP	00-03-028	308-56A-465	REP	00-04-046
246-976-150	REP-P	00-03-075	284-43-120	AMD	00-04-034	308-56A-470	REP	00-04-046
246-976-151	NEW-P	00-03-075	284-43-125	NEW	00-04-034	308-77	PREP	00-03-037
246-976-160	REP-P	00-03-075	284-43-200	AMD	00-04-034	308-77-045	PREP	00-03-037
246-976-161	NEW-P	00-03-075	284-43-210	AMD	00-04-034	308-77-155	PREP	00-03-037
246-976-165	REP-P	00-03-075	284-43-220	AMD	00-04-034	308-77-165	PREP	00-03-037
246-976-170	REP-P	00-03-075	284-43-250	AMD	00-04-034	308-77-170	PREP	00-03-037
246-976-171	NEW-P	00-03-075	284-43-710	AMD	00-04-034	308-77-180	PREP	00-03-037
246-976-180	REP-P	00-03-075	284-43-720	AMD	00-04-034	308-77-240	PREP	00-03-037
246-976-181	REP-P	00-03-075	284-74-300	NEW-P	00-04-090	308-77-265	PREP	00-03-037
246-976-182	NEW-P	00-03-075	284-74-310	NEW-P	00-04-090	308-77-270	PREP	00-03-037
246-976-190	REP-P	00-03-075	284-74-320	NEW-P	00-04-090	308-77-280	PREP	00-03-037
246-976-191	NEW-P	00-03-075	284-74-330	NEW-P	00-04-090	308-91-090	PREP	00-03-038
246-976-200	REP-P	00-03-075	284-74-340	NEW-P	00-04-090	308-96A-005	AMD-P	00-03-094
246-976-210	REP-P	00-03-075	284-74-350	NEW-P	00-04-090	308-96A-345	AMD	00-03-057
246-976-220	REP-P	00-03-075	284-74-360	NEW-P	00-04-090	308-96A-350	AMD	00-03-057
246-976-230	REP-P	00-03-075	284-74-370	NEW-P	00-04-090	308-96A-355	AMD	00-03-057
246-976-240	REP-P	00-03-075	284-74-380	NEW-P	00-04-090	308-96A-360	REP	00-03-057
246-976-260	AMD-P	00-03-075	296-17	PREP	00-02-090	308-96A-365	AMD	00-03-057
246-976-270	AMD-P	00-03-075	296-30-010	AMD-P	00-02-091	308-96A-370	REP	00-03-057
246-976-280	REP-P	00-03-075	296-30-080	AMD	00-03-056	308-96A-375	REP	00-03-057
246-976-290	AMD-P	00-03-075	296-30-081	AMD	00-03-056	308-96A-380	REP	00-03-057
246-976-300	AMD-P	00-03-075	296-30-085	NEW	00-03-056	308-124-021	AMD-P	00-03-063
246-976-310	AMD-P	00-03-075	296-30-090	NEW	00-03-056	308-124E-013	AMD-P	00-03-063

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
308-124H-011	AMD-P	00-03-063	315- 11A-200	REP-XR	00-02-055	388- 15-206	REP	00-04-056
308-124H-012	NEW-P	00-03-063	315- 11A-201	REP-XR	00-02-055	388- 15-207	REP	00-04-056
308-124H-013	NEW-P	00-03-063	315- 11A-202	REP-XR	00-02-055	388- 15-209	REP	00-04-056
308-124H-021	REP-P	00-03-063	315- 11A-203	REP-XR	00-02-055	388- 15-214	REP	00-04-056
308-124H-025	AMD-P	00-03-063	315- 11A-204	REP-XR	00-02-055	388- 15-215	REP	00-04-056
308-124H-026	NEW-P	00-03-063	315- 11A-205	REP-XR	00-02-055	388- 15-219	REP	00-04-056
308-124H-027	NEW-P	00-03-063	315- 11A-206	REP-XR	00-02-055	388- 15-222	REP	00-04-056
308-124H-028	NEW-P	00-03-063	315- 11A-207	REP-XR	00-02-055	388- 15-548	REP	00-04-056
308-124H-029	NEW-P	00-03-063	315- 11A-208	REP-XR	00-02-055	388- 15-551	REP	00-04-056
308-124H-031	NEW-P	00-03-063	315- 11A-209	REP-XR	00-02-055	388- 15-552	REP	00-04-056
308-124H-034	NEW-P	00-03-063	315- 11A-210	REP-XR	00-02-055	388- 15-553	REP	00-04-056
308-124H-039	NEW-P	00-03-063	315- 11A-211	REP-XR	00-02-055	388- 15-554	REP	00-04-056
308-124H-041	AMD-P	00-03-063	315- 11A-212	REP-XR	00-02-055	388- 15-555	REP	00-04-056
308-124H-042	NEW-P	00-03-063	315- 11A-213	REP-XR	00-02-055	388- 15-560	REP	00-04-056
308-124H-051	AMD-P	00-03-063	315- 11A-214	REP-XR	00-02-055	388- 15-562	REP	00-04-056
308-124H-061	AMD-P	00-03-063	352- 32	PREP	00-04-081	388- 15-563	REP	00-04-056
308-124H-062	AMD-P	00-03-063	352- 32-285	PREP	00-04-081	388- 15-564	REP	00-04-056
308-124H-210	AMD-P	00-03-063	356- 14-045	AMD-P	00-04-052	388- 15-566	REP	00-04-056
308-124H-220	REP-P	00-03-063	356- 26-040	AMD-P	00-04-052	388- 15-568	REP	00-04-056
308-124H-221	NEW-P	00-03-063	356- 30-075	AMD-P	00-04-052	388- 15-600	REP	00-04-056
308-124H-230	AMD-P	00-03-063	359- 14-010	NEW-P	00-04-054	388- 15-620	REP	00-04-056
308-124H-240	REP-P	00-03-063	359- 14-020	NEW-P	00-04-054	388- 15-630	REP	00-04-056
308-124H-245	NEW-P	00-03-063	359- 14-030	NEW-P	00-04-054	388- 15-690	REP	00-04-056
308-124H-246	NEW-P	00-03-063	359- 14-050	NEW-P	00-04-054	388- 15-695	REP	00-04-056
308-124H-260	AMD-P	00-03-063	359- 14-070	NEW-P	00-04-054	388- 15-700	REP	00-04-056
308-124H-270	AMD-P	00-03-063	359- 14-080	NEW-P	00-04-054	388- 15-705	REP	00-04-056
308-124H-290	AMD-P	00-03-063	359- 14-100	NEW-P	00-04-054	388- 15-710	REP	00-04-056
308-124H-300	AMD-P	00-03-063	359- 14-130	NEW-P	00-04-054	388- 15-715	REP	00-04-056
308-124H-310	AMD-P	00-03-063	359- 40-010	NEW-P	00-04-054	388- 15-810	REP	00-04-056
308-124H-320	AMD-P	00-03-063	359- 40-020	NEW-P	00-04-054	388- 15-830	REP	00-04-056
308-124H-510	AMD-P	00-03-063	359- 40-050	NEW-P	00-04-054	388- 15-880	REP	00-04-056
308-124H-520	REP-P	00-03-063	359- 40-060	NEW-P	00-04-054	388- 15-890	REP	00-04-056
308-124H-525	NEW-P	00-03-063	365-135-020	AMD	00-02-061	388- 15-895	REP	00-04-056
308-124H-530	AMD-P	00-03-063	365-195-900	NEW-P	00-03-066	388- 17-010	REP	00-04-056
308-124H-551	NEW-P	00-03-063	365-195-905	NEW-P	00-03-066	388- 17-020	REP	00-04-056
308-124H-580	AMD-P	00-03-063	365-195-910	NEW-P	00-03-066	388- 17-100	REP	00-04-056
308-124H-800	AMD-P	00-03-063	365-195-915	NEW-P	00-03-066	388- 17-120	REP	00-04-056
308-125-200	AMD	00-04-057	365-195-920	NEW-P	00-03-066	388- 17-160	REP	00-04-056
314- 37	PREP	00-02-087	365-195-925	NEW-P	00-03-066	388- 17-180	REP	00-04-056
314- 42-010	NEW-P	00-02-089	365-197-010	NEW-P	00-03-067	388- 17-500	REP	00-04-056
314- 48-010	PREP	00-02-087	365-197-020	NEW-P	00-03-067	388- 17-510	REP	00-04-056
314- 56-010	REP-XR	00-02-086	365-197-030	NEW-P	00-03-067	388- 24-2070	REP	00-03-012
314- 56-020	REP-XR	00-02-086	365-197-040	NEW-P	00-03-067	388- 24-2100	REP	00-03-012
314- 60	PREP	00-02-088	365-197-050	NEW-P	00-03-067	388- 24-2150	REP	00-03-012
314- 62	PREP	00-02-088	365-197-060	NEW-P	00-03-067	388- 24-2200	REP	00-03-012
314- 64	PREP	00-02-087	365-197-070	NEW-P	00-03-067	388- 24-2250	REP	00-03-012
314- 76-010	PREP	00-02-087	365-197-080	NEW-P	00-03-067	388- 24-2350	REP	00-03-012
314- 78-010	REP-XR	00-02-086	388- 15-120	REP	00-03-029	388- 24-2430	REP	00-03-012
315- 11A-165	REP-XR	00-02-055	388- 15-145	REP	00-04-056	388- 71-0100	NEW	00-03-029
315- 11A-187	REP-XR	00-02-055	388- 15-196	REP	00-03-043	388- 71-0105	NEW	00-03-029
315- 11A-188	REP-XR	00-02-055	388- 15-19600	REP	00-03-043	388- 71-0110	NEW	00-03-029
315- 11A-189	REP-XR	00-02-055	388- 15-19610	REP	00-03-043	388- 71-0115	NEW	00-03-029
315- 11A-190	REP-XR	00-02-055	388- 15-19620	REP	00-03-043	388- 71-0120	NEW	00-03-029
315- 11A-191	REP-XR	00-02-055	388- 15-19630	REP	00-03-043	388- 71-0150	NEW	00-03-029
315- 11A-192	REP-XR	00-02-055	388- 15-19640	REP	00-03-043	388- 71-0155	NEW	00-03-029
315- 11A-193	REP-XR	00-02-055	388- 15-19650	REP	00-03-043	388- 71-0400	NEW	00-04-056
315- 11A-194	REP-XR	00-02-055	388- 15-19660	REP	00-03-043	388- 71-0405	NEW	00-04-056
315- 11A-195	REP-XR	00-02-055	388- 15-19670	REP	00-03-043	388- 71-0410	NEW	00-04-056
315- 11A-196	REP-XR	00-02-055	388- 15-19680	REP	00-03-043	388- 71-0415	NEW	00-04-056
315- 11A-197	REP-XR	00-02-055	388- 15-198	REP	00-03-043	388- 71-0420	NEW	00-04-056
315- 11A-198	REP-XR	00-02-055	388- 15-200	REP	00-04-056	388- 71-0425	NEW	00-04-056
315- 11A-199	REP-XR	00-02-055	388- 15-201	REP	00-04-056	388- 71-0430	NEW	00-04-056

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388-71-0440	NEW	00-04-056	388-310-0400	AMD-P	00-03-051	392-127-050	REP	00-02-064
388-71-0445	NEW	00-04-056	388-310-0700	AMD-P	00-03-051	392-127-055	REP	00-02-064
388-71-0450	NEW	00-04-056	388-310-1400	AMD-P	00-03-051	392-127-060	REP	00-02-064
388-71-0455	NEW	00-04-056	388-310-1450	NEW-P	00-03-051	392-127-065	AMD	00-02-064
388-71-0460	NEW	00-04-056	388-310-1850	AMD-E	00-03-013	392-127-070	AMD	00-02-064
388-71-0465	NEW	00-04-056	388-310-1850	AMD-P	00-04-091	392-127-085	AMD	00-02-064
388-71-0470	NEW	00-04-056	388-416-0015	AMD-P	00-04-045	392-127-095	REP	00-02-064
388-71-0475	NEW	00-04-056	388-418-0012	REP-P	00-03-062	392-127-101	REP	00-02-064
388-71-0480	NEW	00-04-056	388-418-0025	AMD-P	00-04-045	392-127-106	REP	00-02-064
388-71-0500	NEW	00-03-043	388-440-0001	AMD	00-03-034	392-127-111	AMD	00-02-064
388-71-0505	NEW	00-03-043	388-440-0005	AMD	00-03-034	392-127-112	NEW	00-02-064
388-71-0510	NEW	00-03-043	388-444-0015	AMD	00-04-006	392-127-810	REP	00-02-064
388-71-0515	NEW	00-03-043	388-444-0035	AMD	00-04-006	392-140-600	AMD	00-03-015
388-71-0520	NEW	00-03-043	388-444-0055	AMD	00-04-006	392-140-601	AMD	00-03-015
388-71-0525	NEW	00-03-043	388-444-0065	AMD	00-04-006	392-140-605	AMD	00-03-015
388-71-0530	NEW	00-03-043	388-444-0075	AMD	00-04-006	392-140-613	AMD	00-03-015
388-71-0535	NEW	00-03-043	388-450-0015	PREP	00-03-060	392-140-625	AMD	00-03-015
388-71-0540	NEW	00-03-043	388-450-0035	AMD-E	00-02-062	392-140-626	NEW	00-03-015
388-71-0545	NEW	00-03-043	388-490-0005	AMD-P	00-04-092	392-140-630	AMD	00-03-015
388-71-0550	NEW	00-03-043	388-501-0125	PREP	00-03-011	392-140-660	AMD	00-03-015
388-71-0555	NEW	00-03-043	388-501-0160	AMD	00-03-035	392-140-665	REP	00-03-015
388-71-0560	NEW	00-03-043	388-501-0165	AMD	00-03-035	392-140-675	AMD	00-03-015
388-71-0580	NEW	00-03-043	388-538-001	REP	00-04-080	392-140-680	AMD	00-03-015
388-71-0600	NEW	00-04-056	388-538-050	AMD	00-04-080	392-140-700	REP	00-02-063
388-71-0605	NEW	00-04-056	388-538-060	AMD	00-04-080	392-140-701	REP	00-02-063
388-71-0610	NEW	00-04-056	388-538-065	NEW	00-04-080	392-140-702	REP	00-02-063
388-71-0615	NEW	00-04-056	388-538-066	NEW	00-04-080	392-140-702	REP	00-02-063
388-71-0620	NEW	00-04-056	388-538-070	AMD	00-04-080	392-140-710	REP	00-02-063
388-71-1000	NEW	00-04-056	388-538-080	AMD	00-04-080	392-140-711	REP	00-02-063
388-71-1005	NEW	00-04-056	388-538-080	AMD	00-04-080	392-140-712	REP	00-02-063
388-71-1010	NEW	00-04-056	388-538-090	REP	00-04-080	392-140-713	REP	00-02-063
388-71-1015	NEW	00-04-056	388-538-095	AMD	00-04-080	392-140-714	REP	00-02-063
388-71-1020	NEW	00-04-056	388-538-100	AMD	00-04-080	392-140-715	REP	00-02-063
388-71-1025	NEW	00-04-056	388-538-110	AMD	00-04-080	392-140-716	REP	00-02-063
388-71-1030	NEW	00-04-056	388-538-120	AMD	00-04-080	392-140-716	REP	00-02-063
388-71-1035	NEW	00-04-056	388-538-130	AMD	00-04-080	392-140-720	REP	00-02-063
388-71-1065	NEW	00-04-056	388-538-140	AMD	00-04-080	392-140-721	REP	00-02-063
388-71-1070	NEW	00-04-056	388-538-150	REP	00-04-080	392-140-722	REP	00-02-063
388-71-1075	NEW	00-04-056	388-542-0050	NEW-P	00-03-061	392-140-722	REP	00-02-063
388-71-1080	NEW	00-04-056	388-542-0100	NEW-P	00-03-061	392-140-723	REP	00-02-063
388-71-1085	NEW	00-04-056	388-542-0125	NEW-P	00-03-061	392-140-724	REP	00-02-063
388-71-1090	NEW	00-04-056	388-542-0150	NEW-P	00-03-061	392-140-725	REP	00-02-063
388-71-1095	NEW	00-04-056	388-542-0200	NEW-P	00-03-061	392-140-726	REP	00-02-063
388-71-1100	NEW	00-04-056	388-542-0250	NEW-P	00-03-061	392-140-727	REP	00-02-063
388-71-1105	NEW	00-04-056	388-542-0275	NEW-P	00-03-061	392-140-727	REP	00-02-063
388-71-1110	NEW	00-04-056	388-542-0300	NEW-P	00-03-061	392-140-728	REP	00-02-063
388-71-1110	NEW	00-04-056	388-545-500	NEW	00-04-019	392-140-730	REP	00-02-063
388-86	PREP	00-03-011	388-547	PREP	00-03-010	392-140-731	REP	00-02-063
388-86-012	PREP	00-03-011	388-890-0735	NEW-W	00-02-065	392-140-732	REP	00-02-063
388-86-019	PREP	00-03-011	388-890-0740	NEW-W	00-02-065	392-140-733	REP	00-02-063
388-86-090	REP	00-04-019	388-890-0865	NEW-W	00-02-065	392-140-735	REP	00-02-063
388-86-110	PREP	00-03-011	390-05-400	AMD	00-04-058	392-140-736	REP	00-02-063
388-86-115	PREP	00-03-011	391-08	PREP	00-04-070	392-140-740	REP	00-02-063
388-86-120	PREP	00-03-011	391-45	PREP	00-04-070	392-140-741	REP	00-02-063
388-86-300	PREP	00-03-011	391-45-070	AMD-E	00-03-053	392-140-742	REP	00-02-063
388-87	PREP	00-03-011	391-45-110	AMD-E	00-03-053	392-140-743	REP	00-02-063
388-87-027	PREP	00-03-011	391-45-130	AMD-E	00-03-053	392-140-744	REP	00-02-063
388-87-090	REP	00-04-019	391-95	PREP	00-04-070	392-140-745	REP	00-02-063
388-200-1160	REP	00-03-035	392-127-011	AMD	00-02-064	392-140-746	REP	00-02-063
388-200-1300	PREP	00-04-036	392-127-015	AMD	00-02-064	392-140-747	REP	00-02-063
388-200-1350	PREP	00-04-036	392-127-030	REP	00-02-064	392-140-900	NEW	00-02-063
388-310-0200	AMD-P	00-03-051	392-127-035	REP	00-02-064	392-140-901	NEW	00-02-063
388-310-0300	AMD-P	00-03-051	392-127-040	REP	00-02-064	392-140-902	NEW	00-02-063
						392-140-903	NEW	00-02-063
						392-140-905	NEW	00-02-063
						392-140-906	NEW	00-02-063

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392-140-908	NEW	00-02-063	434-219-310	AMD	00-03-003	458- 20-13601	NEW-P	00-04-029
392-140-910	NEW	00-02-063	434-219-320	AMD	00-03-003	458- 20-228	AMD	00-04-028
392-140-911	NEW	00-02-063	434-240-202	NEW-E	00-03-036	458- 20-261	AMD-XA	00-03-001
392-140-912	NEW	00-02-063	434-257	AMD-E	00-04-010	458- 61-230	AMD-P	00-04-055
392-140-913	NEW	00-02-063	434-257-010	AMD-E	00-04-010	460- 21C-005	NEW-P	00-02-068
399- 30-030	PREP	00-04-096	434-257-020	AMD-E	00-04-010	460- 21C-010	NEW-P	00-02-068
399- 30-030	AMD-E	00-04-097	434-257-030	AMD-E	00-04-010	460- 21C-020	NEW-P	00-02-068
399- 50-010	NEW-C	00-04-100	434-257-050	REP-E	00-04-010	460- 21C-030	NEW-P	00-02-068
399- 50-020	NEW-C	00-04-100	434-257-070	AMD-E	00-04-010	460- 21C-040	NEW-P	00-02-068
399- 50-030	NEW-C	00-04-100	434-257-080	REP-E	00-04-010	460- 44A-500	AMD	00-04-094
399- 50-040	NEW-C	00-04-100	434-257-090	AMD-E	00-04-010	460- 44A-504	AMD	00-04-094
415- 02-010	AMD-P	00-04-025	434-257-100	AMD-E	00-04-010	460- 46A-010	REP	00-04-095
415- 02-020	AMD-P	00-04-025	434-257-120	REP-E	00-04-010	460- 46A-020	REP	00-04-095
415- 02-030	AMD-P	00-04-025	434-257-130	AMD-E	00-04-010	460- 46A-025	REP	00-04-095
415- 02-040	REP-P	00-04-025	434-257-150	AMD-E	00-04-010	460- 46A-030	REP	00-04-095
415- 02-050	AMD-P	00-04-025	434-663-100	AMD-P	00-04-083	460- 46A-040	REP	00-04-095
415- 02-060	AMD-P	00-04-025	434-663-270	NEW-P	00-04-083	460- 46A-050	REP	00-04-095
415- 02-070	REP-P	00-04-025	434-663-280	NEW-P	00-04-083	460- 46A-055	REP	00-04-095
415- 02-080	AMD-P	00-04-025	434-663-300	AMD-P	00-04-083	460- 46A-061	REP	00-04-095
415- 02-100	AMD-P	00-04-025	434-663-305	NEW-P	00-04-083	460- 46A-065	REP	00-04-095
415- 02-120	NEW-P	00-04-025	434-663-310	AMD-P	00-04-083	460- 46A-071	REP	00-04-095
415- 02-130	NEW-P	00-04-025	434-663-320	AMD-P	00-04-083	460- 46A-072	REP	00-04-095
415- 04	PREP	00-04-061	434-663-400	AMD-P	00-04-083	460- 46A-090	REP	00-04-095
415- 08	PREP	00-04-061	434-663-400	DECOD-P	00-04-083	460- 46A-091	REP	00-04-095
415- 10	PREP	00-04-062	434-663-405	NEW-P	00-04-083	460- 46A-092	REP	00-04-095
415-104-450	NEW-P	00-04-023	434-663-410	AMD-P	00-04-083	460- 46A-095	REP	00-04-095
415-108-315	NEW-P	00-04-024	434-663-410	DECOD-P	00-04-083	460- 46A-100	REP	00-04-095
415-112-125	AMD-P	00-04-024	434-663-420	AMD-P	00-04-083	460- 46A-105	REP	00-04-095
415-112-140	AMD-P	00-04-024	434-663-420	DECOD-P	00-04-083	460- 46A-110	REP	00-04-095
415-112-145	AMD-P	00-04-024	434-663-430	AMD-P	00-04-083	460- 46A-115	REP	00-04-095
415-112-155	AMD-P	00-04-024	434-663-430	DECOD-P	00-04-083	460- 46A-145	REP	00-04-095
415-112-330	AMD-P	00-04-024	434-663-440	AMD-P	00-04-083	460- 46A-150	REP	00-04-095
415-112-460	AMD-P	00-04-024	434-663-440	DECOD-P	00-04-083	460- 46A-155	REP	00-04-095
415-112-4605	AMD-P	00-04-024	434-663-450	DECOD-P	00-04-083	460- 46A-160	REP	00-04-095
415-112-4608	AMD-P	00-04-024	434-663-460	REP-P	00-04-083	460- 46A-165	REP	00-04-095
415-112-471	AMD-P	00-04-024	434-663-470	REP-P	00-04-083	468- 38-070	PREP	00-04-068
415-112-473	AMD-P	00-04-024	434-663-480	REP-P	00-04-083	468-300-010	PREP	00-04-086
415-112-475	AMD-P	00-04-024	434-663-490	AMD-P	00-04-083	468-300-020	PREP	00-04-086
415-112-477	AMD-P	00-04-024	434-663-490	DECOD-P	00-04-083	468-300-040	PREP	00-04-086
415-112-705	NEW-P	00-04-024	434-663-510	REP-P	00-04-083	468-300-220	PREP	00-04-086
415-112-920	NEW-P	00-04-024	434-663-520	REP-P	00-04-083	478-132-010	AMD	00-04-038
415-112-950	NEW-P	00-04-024	434-663-530	AMD-P	00-04-083	478-132-030	AMD	00-04-038
434-219-020	AMD	00-03-003	434-663-600	AMD-P	00-04-083	478-324-020	AMD	00-04-039
434-219-120	AMD	00-03-003	434-663-610	AMD-P	00-04-083	478-324-030	AMD	00-04-039
434-219-160	AMD	00-03-003	434-663-620	AMD-P	00-04-083	478-324-040	AMD	00-04-039
434-219-160	AMD-E	00-03-036	434-663-640	NEW-P	00-04-083	478-324-045	NEW	00-04-039
434-219-165	NEW	00-03-003	434-663-700	RECOD-P	00-04-083	478-324-050	REP	00-04-039
434-219-170	NEW	00-03-003	434-663-710	RECOD-P	00-04-083	478-324-060	AMD	00-04-039
434-219-180	AMD	00-03-003	434-663-720	RECOD-P	00-04-083	478-324-070	AMD	00-04-039
434-219-185	NEW	00-03-003	434-663-730	RECOD-P	00-04-083	478-324-090	AMD	00-04-039
434-219-210	AMD	00-03-003	434-663-740	RECOD-P	00-04-083	478-324-110	AMD	00-04-039
434-219-220	AMD	00-03-003	434-663-750	RECOD-P	00-04-083	478-324-120	AMD	00-04-039
434-219-230	AMD	00-03-003	434-663-760	RECOD-P	00-04-083	478-324-130	AMD	00-04-039
434-219-240	AMD	00-03-003	434-663-770	NEW-P	00-04-083	478-324-140	AMD	00-04-039
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434-219-255	NEW	00-03-003	446- 30-010	AMD	00-02-069	478-324-170	AMD	00-04-039
434-219-260	AMD	00-03-003	458- 20-135	AMD-E	00-04-026	478-324-180	AMD	00-04-039
434-219-270	AMD	00-03-003	458- 20-135	AMD-P	00-04-029	478-324-190	AMD	00-04-039
434-219-280	AMD	00-03-003	458- 20-13501	PREP	00-04-027	478-324-200	AMD	00-04-039
434-219-285	NEW	00-03-003	458- 20-136	AMD-E	00-04-026	478-324-210	AMD	00-04-039
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480-60-030	AMD	00-04-011						
480-60-035	NEW	00-04-011						
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480-60-050	AMD	00-04-011						
480-60-060	AMD	00-04-011						
480-60-070	REP	00-04-011						
480-60-080	AMD	00-04-011						
480-60-090	AMD	00-04-011						
480-60-99002	REP	00-04-011						
480-60-99003	REP	00-04-011						
480-66-010	REP	00-04-011						
480-66-020	REP	00-04-011						
480-66-030	REP	00-04-011						
480-66-040	REP	00-04-011						
480-66-050	REP	00-04-011						
480-66-060	REP	00-04-011						
480-66-070	REP	00-04-011						
480-66-100	NEW	00-04-011						
480-66-110	NEW	00-04-011						
480-66-120	NEW	00-04-011						
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